United Nations A/59/PV.53

General Assembly

Fifty-ninth session

53rd plenary meeting

Monday, 15 November 2004, 10 a.m.
New York

Official Records

President: Mr. Ping .... (Gabon)

In the absence of the President, Mr. Chowdhury (Bangladesh), Vice-President, took the Chair.

The meeting was called to order at 10.05 a.m.

Agenda items 50 and 51

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General transmitting the ninth annual report of the International Criminal Tribunal (A/59/183)

Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General transmitting the eleventh annual report of the International Tribunal (A/59/215)

The Acting President: At the outset, let me wish all delegates, hearty Eid greetings on the occasion of the holy festival of Eid Al-Fitr.

The General Assembly will now consider, in a joint debate, items 50 and 51 of its agenda.

May I take it that the Assembly takes note of the ninth annual report of the International Criminal Tribunal for Rwanda?

It was so decided.

The Acting President: May I take it that the Assembly takes note of the eleventh annual report of the International Tribunal for the Former Yugoslavia?

It was so decided.

The Acting President: I now call on Mr. Erik Møse, President of the International Criminal Tribunal for Rwanda.

Mr. Møse: It is a great honour to address this distinguished Assembly and to present the ninth annual report of the International Criminal Tribunal for Rwanda (ICTR). The period under review is from 1 July 2003 to 30 June 2004, but this occasion also provides an opportunity to assess the results so far of the third mandate of the Tribunal from 2003 to 2007 in light of the implementation of the Tribunal's completion strategy.

During the period under review, the ICTR delivered five trial judgements involving nine accused. Another judgement was delivered on 15 July 2004. This brings the total number of judgements rendered by the ICTR since the first trial started in January 1997 to 17, involving 23 persons. The next judgement is

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expected in a couple of months. Never before has the judicial output been so high.

In 2003, the Tribunal commenced four new trials involving a total of 10 accused. In 2004, we started three new trials concerning six detainees. Consequently, 25 persons are currently on trial, including those accused whose trials commenced in the second mandate. At present, we therefore have a total of completed and ongoing cases involving 48 persons.

The ongoing trials involving the 25 accused may be divided into two groups: multi-accused and single-accused cases. Five trials are multi-accused cases, comprising a total of 22 persons. These trials are voluminous and complex. They are by necessity time-consuming, because the prosecution and the defence will call a large number of witnesses. I am therefore pleased to report that there has been considerable progress in the *Butare* trial (six accused) and the *Military I* case (four accused). In both trials, the prosecution recently closed its case after having called 59 and 82 witnesses, respectively. The defence teams will commence their cases in January 2005. In the *Government* trial, the third multi-accused case involving four accused, there are only about 12 remaining prosecution witnesses.

The progress in these three multi-accused trials is a significant step towards the implementation of the ICTR completion strategy. Our experience with multi-accused cases shows that the presentation of the defence case usually requires less time than the prosecution case because of less extensive cross-examination. The two remaining multi-accused cases are at a very early stage. The *Military II* trial commenced on 20 September 2004 and has been slowed down by illness. The *Karemera et al.* trial, which started in November 2003, will commence *de novo*, following a recent Appeals Chamber ruling to this effect. These two trials will be given priority in 2005.

Turning now to single-accused cases, they are less complicated than multi-accused trials and require less time. The Tribunal has delivered judgements in three single-accused trials since the presentation of our last annual report. The *Gacumbitsi* trial started on 28 July 2003, and judgement was delivered on 17 June 2004 after 31 trial days. The *Ndindabahizi* case started on 1 September 2003 with judgement on 15 July 2004 after 27 trial days. In the *Muhimana* trial, which commenced on 29 March 2004, the parties closed their respective cases after 34 trial days. Judgement is expected in early 2005. These three recent trials confirm the Tribunal's capacity to complete single-accused cases in less than a year even when the judges sitting in these cases are also conducting multi-accused trials. Let me add that last week the prosecution also closed its case in the *Simba* trial, which started on 30 August 2004.

In order to ensure maximum judicial output, it is important to find the right balance between the multi-accused and single-accused trials. The eight trials currently in progress are taking place in three courtrooms only. This makes our task difficult and requires careful long-term planning. Single-accused cases are normally slotted in when there are breaks in the voluminous trials, so-called twin-tracking, or they are heard in morning or afternoon shifts simultaneously with other trials. We are anxious to ensure the steady progress of the multi-accused trials. Once they are completed, there will be only single-accused cases left.

Let me stress that the workload of the Tribunal's Appeals Chamber is also very significant. During the period under review, four appeals from judgements and 33 interlocutory appeals were filed. In July 2004, the Appeals Chamber delivered judgement in the *Niyitegeka* case. Judgement in the *Ntakirutimana* case will be rendered later this year.

As mentioned in our annual report, the commencement of four new trials in 2003 was due to the arrival of five ad litem judges that year. Security Council resolution 1512 (2003) increased their number to nine. The remaining four ad litem judges arrived in Arusha in September 2004 and made it possible to start two new trials. These nine judges, selected on the basis of the criteria enumerated in the Statute of the Tribunal, form an excellent team together with the nine permanent judges (including one new permanent judge from St. Kitts and Nevis and one from Sri Lanka), and they have already made significant contributions to the Tribunal. I would like to reiterate our appreciation to the General Assembly for having elected a pool of 18 ad litem judges. We also look forward to drawing on the remaining nine ad litem judges when the appointments of the ad litem judges presently in Arusha come to an end.

Based on the progress made during the last year, I am pleased to confirm that the ICTR is on schedule to complete all trials by 2008, as required by Security Council resolution 1503 (2003). In conformity with that resolution, the ICTR Prosecutor will concentrate on those individuals that are alleged to have been in positions of leadership and to bear the gravest responsibility for the crimes committed. The latest version of our completion strategy, dated 26 April 2004, is contained in document S/2004/341, and I refer delegations to that document for further information. On 23 November 2004, the Prosecutor and I will meet in the Security Council and present our six-month assessment of the implementation of the completion strategy, in accordance with Council resolution 1534 (2004).

Even though we are on schedule, there are dark clouds on the horizon. The ICTR can comply with the time frames established in the Security Council resolution only if it is provided with sufficient resources. Unfortunately, certain Member States have failed to pay their contributions to the two ad hoc Tribunals. As a consequence, the Controller has frozen the recruitment of new staff to the Tribunals. So far, that has not had any significant effect on the ICTR completion strategy. We have been able to keep the trials going, but the situation is becoming critical. More than 80 staff members have left the Tribunal since the freeze was imposed, and the number of vacancies is increasing every month. Many vacant posts are directly linked to the judicial production of the ICTR.

Let me provide some illustrations. As of today, there are nine vacant posts for legal officers in the three Chambers, the recruitment for which has been put on hold as a consequence of the freeze. Those nine legal officers would have worked under the direct supervision of the judges. Several permanent and ad litem judges have no associate legal officers. The judges are now sharing legal officers through ad hoc arrangements. This situation cannot continue.

The Prosecutor's office is also faced with serious problems. In the Appeals section, 5 out of 11 legal posts are vacant. There are 16 vacancies in the Trial section, greatly reducing the capacity of the nine trial teams. The Registry's ability to provide support to the judicial process is also affected. Furthermore, the lack of resources affects the defence teams.

It is a paradox that indispensable financial contributions are not paid when the Tribunal is doing its utmost to complete its task. We cannot maintain the speed if the brakes are on. A slowing down of the judicial process may also mean that Member States have to pay their contributions for longer periods of time. As stated in our annual report, the Tribunal strongly recommends that it continue to receive sufficient resources to enable it to comply with the deadlines set by the Security Council.

The Tribunal appreciates the cooperation of the Rwandan authorities. Last year I reported that there had been a steady flow of witnesses from Kigali to Arusha. I am pleased to state that the situation remains the same. On request, we are also receiving documentation from the judicial proceedings in Rwanda in order to evaluate fully the credibility of our witnesses. That is important to the integrity of the proceedings in Arusha. Let me stress that both parties — the prosecution and the defence — must receive the necessary assistance to carry out their investigations in Rwanda.

There are 17 indicted persons who remain at large and who continue to evade justice. Some of them are alleged to have been the architects of the events in Rwanda in 1994. The Tribunal calls on those States in which those accused are found to intensify their cooperation with the ICTR and to facilitate their arrest and transfer to Arusha. Member States should also remain receptive to discussions relating to the possible transfer of cases of indictees and suspects at large to their respective jurisdictions for trial. Following a request for transfer by the Prosecutor, it will be for the Trial Chambers to decide whether a person shall be transferred.

Let me add that cooperation within the Tribunal is excellent. The President, the Prosecutor and the Registrar meet regularly in the Coordination Council and are in frequent contact more generally. The ICTR staff continues to be committed and hardworking.

Finally, let me reiterate our appreciation to those six Member States that have entered into agreements for the enforcement of sentences handed down by the ICTR. Let me also express our thanks to all Member States for their cooperation, including arrests, transfers of indicted persons to Arusha and facilitating the travel of witnesses. The Tribunal also thanks the Secretary-General, Mr. Kofi Annan, for his continued support.

The Acting President: I call on Mr. Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia.

Mr. Meron: I am deeply honoured to address the Assembly to present the eleventh annual report of the International Criminal Tribunal for the Former Yugoslavia (ICTY). At the outset, I wish to thank the Member States of the United Nations for the critical support they have long afforded the Tribunal. We are working tirelessly to accomplish our important mission, and I am pleased to report that, despite substantial obstacles, we are making tremendous strides.

Since I last reported to the Assembly one year ago, the Tribunal has continued the steady march of progress in achieving its mission. The Trial Chambers and the Appeals Chamber have continued to hear and dispose of a record number of cases, and we have implemented a number of reforms to increase the efficiency and the pace of our proceedings. Consistent with the completion strategy endorsed by the Security Council, those initiatives, both internal and external, ensure that the Tribunal's energies and resources are concentrated on senior leaders suspected of being most responsible for crimes within the Tribunal's jurisdiction.

Even though we are proud of the gains we have made, we recognize that there is always room for improvement. We are constantly seeking ways to increase the efficiency of our proceedings and to reduce the costs of our operations, without sacrificing the quality of our work.

We have redoubled our efforts to ensure that the States of the former Yugoslavia do all they can to arrest indicted individuals who remain at large, and Serbia and Montenegro's delivery to the Tribunal of Ljubisa Beara, who was indicted for atrocities at Srebrenica, is noteworthy. As we strive to fulfil the Tribunal's mission, however, we are growing deeply alarmed by the current fiscal circumstances and the effect they are beginning to have on our work, and by the fact that a number of important indictees remain at large.

With those concerns in mind, we eagerly invite the cooperation of all Member States as we seek to bring to justice the perpetrators of the atrocities that scarred the Balkans in the 1990s and devastated hundreds of thousands of lives, and to contribute further to the reconciliation of the peoples of the former Yugoslavia.

First let me review for the Assembly some of the Tribunal's chief accomplishments during the past year. The Tribunal's activities have continued at a fast pace, honouring the Tribunal's commitment to the Security Council and to the General Assembly. The Tribunal's Trial Chambers have continued to work at full capacity, holding morning and afternoon sessions, often running six trials simultaneously. During the year in review, the Chambers worked on 35 merits case and five cases of contempt, all at various phases of the proceedings. They rendered 11 judgements, some on the merits and others concerning sentencing.

Certainly the most high-profile trial has been that of Slobodan Milosevic, former head of State of the Federal Republic of Yugoslavia, which proceeded before Trial Chamber III. Following the departure from the trial — and, sadly, the passing — of Presiding Judge May, we were able to continue the functioning of the trial by applying, for the first time in the ICTY, rule 15(bis), which we amended in 2002 and which allowed us to replace Judge May immediately with Judge Bonomy. In February of this year, the prosecution rested its case, and the defence opened its case at the end of August.

The Appeals Chamber, during the year in review, disposed of a record number of appeals. The Chamber completed 17 interlocutory appeals, four appeals from judgements on the merits, and one request for review. The Appeals Chamber also altered its internal working procedures to ensure that appeals continue to be treated as expeditiously and fairly as possible.

Over the past year, we have adopted several important reforms to conserve the Tribunal's resources for the prosecution of senior officials. Internally, we amended our rules to facilitate the implementation of the completion strategy and to enforce the objectives of Security Council resolutions 1503 (2003) and 1534 (2004). At a special plenary session in April, the Judges of the Tribunal amended rule 28(A) of the rules of procedure and evidence to require that a group of judges — namely, the President and Vice-President, along with the Presiding Judges from each of the three Trial Chambers — verify that each new indictment filed by the Prosecutor concentrates on one or more senior leaders suspected of being most responsible for crimes within the Tribunal's jurisdiction. Indictments that meet this seniority requirement proceed in the ordinary manner; those that do not will be returned to the Prosecutor.

The permanent Judges of the Tribunal also unanimously adopted an amendment to rule 11(bis), the rule governing the transfer of cases involving mid- and lower-level accused to national jurisdictions where the accused would receive a fair trial and would not be exposed to the death penalty. Prior to the amendment, the rule permitted a case to be referred only to the national jurisdiction in which the alleged crimes occurred or in which the accused was arrested. Now, however, we have expanded rule 11(bis) to allow the transfer of cases to any national jurisdiction with the will and the judicial capacity to afford the accused a fair trial — again, so long as the death penalty is not an available punishment.

That amendment creates an additional mechanism for the referral of cases out of the Tribunal's jurisdiction, thereby improving the Tribunal's efficiency. By transferring lower- and intermediate-level defendants, we enhance the critical involvement of national Governments in bringing reconciliation and justice to the region. A trial chamber has been tasked with considering requests from the Prosecutor for the transfer of cases to Bosnia and Herzegovina, Serbia and Montenegro, and Croatia. Its role is to verify that the conditions stated by the Security Council and our rules of procedure and evidence have been met in terms of the defendant's seniority and the availability of due process in the domestic courts, before the cases can be transferred. One of these national jurisdictions, I am pleased to report, is very close to being ready to accept transfer cases of lower- and intermediate-level officials.

Officials from the Tribunal have worked closely with the Office of the High Representative to create the special chamber for war crimes prosecutions in the new State Court of Bosnia and Herzegovina. An Implementation Task Force and nine working groups were established, and those groups are nearing completion of their work in preparing the Sarajevo war crimes chamber to receive transferred cases. The Bosnian authorities expect that the chamber will be operational by January 2005, and the Tribunal is prepared to begin transferring cases as soon as practicable.

As the Balkan region moves toward stability, these national courts should — and, I trust, will — assume a major role in bringing offenders to justice, achieving reconciliation in the area, and promoting the rule of law. However, they can do so only if they are not used for political purposes and if they meet international standards of due process and fair trial. To that end, other members of the international community have begun lending support to the fledgling Sarajevo tribunal. At a diplomatic conference held in October 2003 at The Hague, Ambassador Fassier, the Senior Deputy High Representative for Bosnia and Herzegovina, joined me in explaining the function of the chamber and the need for States to support the project. As a result, supporters pledged more than 16 million euros in contributions to defray start-up costs during the chamber's first two years. Additional pledges were made to help fund years three through five of the project. The delivery of such financial support is crucial to ensuring the successful operation of the new war crimes chamber.

The Tribunal is engaged in a number of initiatives designed to expedite the process of preparation for an eventual transfer of cases from the ICTY to Croatia and Serbia and Montenegro. For example, the Tribunal organized an extensive programme for Croatian judges and prosecutors who are likely to take part in the trial of war crimes cases. During my first official visit to Croatia, in early November 2004, I was impressed by the growing professionalism of the County Court in Zagreb and of the Supreme Court of Croatia. The Tribunal also hosted a week-long visit, organized by the United Nations Development Programme, by seven judges of the newly established department for war crimes in the Belgrade District Court. This court is developing important war crimes trial capability.

The availability of national war crimes courts to which the Tribunal can transfer intermediate and lower-level cases will go a long way towards helping us fulfil the goals of the completion strategy. We have made great progress towards that end during the last year. The judges of the Tribunal held several plenary sessions in which, among other things, we adopted the rule amendments that I mentioned earlier. The plenary sessions in December 2003 and May of this year focused heavily on the completion strategy, including ongoing measures to enhance the efficient operation of the Tribunal.

In addition to the rule changes to which I referred, several other developments during the past year have made the Tribunal's operation smoother and improved its efficiency. We have established a scheduling working group that forecasts the duration of trials and judgement-drafting periods, to ensure that courtroom space is used to its maximum capacity. This working group, composed of members of the Registry, Chambers and the Prosecutor's office, has succeeded in overseeing the efficient progress of trials and use of the Tribunal's facilities.

Finally, we have extended the powers of ad litem judges to perform pre-trial functions in a greater number of cases, thereby making full use of the ad litem judges' service and aiding trial readiness. In relation to the ad litem judges, however, I would underscore, as I noted in my letter to the United Nations Legal Counsel, that it is of critical importance that the elections of ad litem judges be held as early as possible in 2005. Early elections will enable the Tribunal to achieve the most timely and efficient organization of trials possible.

I would also note that we continue our efforts to work with the Governments of the States of the former Yugoslavia. Cooperation with Bosnia and Herzegovina is good, but cooperation with Republika Srpska remains insufficient. This is especially the case with respect to fugitives who remain at large and access to wartime documentation. Moreover, except for the case of Ljubiša Beara, indicted for his alleged role in the war crimes in Srebrenica, there has still been virtually no cooperation by Serbia and Montenegro with respect to the arrest of fugitives, access to evidence and the granting of waivers of immunity to enable witnesses to provide statements or testify before the Tribunal. While the Croatian authorities' cooperation has improved considerably, we expect them to exert their utmost efforts until Gotovina is in The Hague.

I hope it is clear by now that the Tribunal has made every possible effort to stay on track with the completion strategy during the last year. I must report, however, that financial difficulties are beginning to threaten our capacity to run on all cylinders. Although some Member States have fulfilled their financial commitments to the Tribunal for 2004 — including most recently the Russian Federation, to whom I wish to express my special appreciation, and all the other permanent members of the Security Council — far too many other States have not met their obligation to support the Tribunal's mission, and their payments have fallen into arrears.

At this time, outstanding contributions for 2004 and previous years amount to an unacceptably high percentage of the Tribunal's yearly budget. As a result, the Secretary-General determined in May to keep all expenditures at a minimum and imposed a recruitment freeze on all posts and a severe reduction in all other expenditures.

The freeze is beginning to have a devastating effect on the Tribunal. Since it was implemented in May, well over 100 staff members have left the Tribunal, which represents more than 10 per cent of our numbers. This loss of staff jeopardizes our efforts to execute the completion strategy. More to the point, the hiring freeze leaves us unable not only to hire new staff members, but even to replace those who leave. Also, the perceived lack of support from the international community cannot help but influence staff morale and motivation.

We are striving hard to do more with less, but we can redistribute workloads for only so long. Inevitably, the hiring freeze will cripple our ability to operate efficiently and to fulfil the goals of the completion strategy. As an institution with only a limited mandate and of impermanent duration, we already face difficulties in recruiting and retaining talented staff members, who are attracted, naturally, to more permanent employment with greater opportunities for advancement at other institutions. This intrinsic disadvantage, coupled with the hiring freeze, poses a serious threat to our completion goals.

Despite these financial troubles, we are doing all that we possibly can to stay on track with the completion strategy. However, I repeat my previous call and that of my predecessors for each and every Member State to do its full part to assist the work of the Tribunal. Twenty fugitives remain at large and must be arrested. This number includes Radovan Karadzić, Ratko Mladić and Ante Gotovina. In this regard, I urge the General Assembly to be mindful of the risks posed to international justice in seeming to allow fugitives the false hope that they can outrun and outlast the Tribunal. With the end of the Tribunal's lifecycle in sight, we must together guard against compromising the legacy of justice and reconciliation in the former Yugoslavia. As I have often said, the Tribunal's historic mission will not have been achieved as long as senior-level accused have not been brought to justice at The Hague.

The Tribunal is now more than 10 years old. When its creators established it in 1993 as the first international war crimes chamber since Nuremberg, they hoped it would do more than simply mete out justice to individual wrongdoers. They hoped that it would also help create an impartial record of atrocities committed during the Yugoslav conflicts and offer victims a sense of accountability and dignity. And they hoped that in so doing it would contribute to reconciliation and reconstruction in the republics of the former Yugoslavia. I am proud to say that the Tribunal, with the General Assembly's support, is tirelessly striving to fulfil those hopes.

It would exceed the capacity of any single court to bring more than a partial reckoning to the vast scale of the crimes that marred the Balkans in the 1990s — the murders, rapes and deportations, the acts of torture, destruction and cruelty.

If it was with slowness at first, the Tribunal has helped to bring to account a considerable number of accused of high rank, and it is doing so with confidence and efficiency. By throwing into stark relief the consequences of ethnic and religious hatred, the trials held by the Tribunal have demonstrated the viciousness of those who built their power by encouraging their followers to embrace such hatred.

The Tribunal has thus made a fundamental and lasting contribution to bringing justice to the peoples of the former Yugoslavia. In addition, the Tribunal's very existence has served an educational function far beyond the borders of the Balkan region. Due in no small part to the Tribunal, and the wisdom of the United Nations in creating it, international humanitarian and human rights law today hold greater currency and are better understood throughout the world than they were a decade ago.

The types of cases on the Tribunal's docket are necessarily large and complex and our proceedings are necessarily lengthy and costly. Often the crimes charged were connected to entire military campaigns and occurred over the course of months or years across many locations and involved several defendants.

With many counts of indictments, tens or hundreds of witnesses, thousands of pages of documents — most of which must be translated from Serbo-Croatian into English and French, the Tribunal's working languages — the trials are extremely complex. In the plenary session scheduled for 6 December, the judges will consider additional important proposals for further expediting trials and appeals.

It is difficult to put a price tag on international justice. At the very least, justice for the former Yugoslavia cannot be cheap. Due process must be fully respected, and it is critical to bear in mind all that is gained through the Tribunal's work.

After some 10 years the Tribunal has established an impressive and unprecedented body of jurisprudence on both substantive international humanitarian and criminal law and, equally important, on criminal procedure and evidence. The Nuremberg Tribunal left us with important judgements on war crimes and crimes against humanity, but it had far less to say on international procedural and evidentiary law.

Our judgements on both procedural and substantive law now supply a foundation for all international criminal courts, and our success serves as a model for national prosecutions of those who commit wartime atrocities. Our leading decisions on international humanitarian law will provide essential guidance for the tribunals in the former Yugoslavia, and our staff members are sharing and will continue to impart their valuable experience in training the staff of these nascent courts.

Our jurisprudence will likewise contribute to the success of other courts designed to enforce international humanitarian law, including various national courts as well as the Special Court for Sierra Leone and the International Criminal Court, both of which have used our Tribunal as a model.

In establishing this Tribunal, the international community pledged to bring to justice persons suspected of having inflicted terrible atrocities on their fellow human beings. It pledged to eliminate impunity, not through vengeance but through the rule of law and by upholding the basic principles of human rights and due process. With the full support of all Member States, we look forward to continuing that important work and to providing a jurisprudential example for criminal tribunals still to come.

Mr. Hamburger (Netherlands): I have the honour to speak on behalf of the European Union, the candidate countries Bulgaria, Romania, Turkey and

Croatia, and the European Free Trade Association countries Iceland and Liechtenstein, members of the European Economic Area, align themselves with this statement.

First of all I would like to thank Judge Møse, President of the International Criminal Tribunal for Rwanda (ICTR) and Judge Meron, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), for their briefings earlier this morning.

The European Union believes strongly in the principle of no impunity for the most serious crimes of concern to the international community as a whole. Both the ICTY and the ICTR were created to hold individuals accountable for such crimes. Peace, justice and the rule of law are inextricably linked, and both Tribunals have made valuable contributions towards reconciliation and the maintenance of peace and security in the countries that they have served.

The European Union would therefore like to reaffirm its full support for the ICTY and the ICTR, and it commends their entire staff in their efforts to bring justice to victims of the most heinous crimes.

The European Union wishes to express its appreciation for the eleventh annual report of the ICTY and the ninth annual report of the ICTR. The EU welcomes the developments and improvements achieved during the past year. In the period under review, the ICTR delivered five trial judgements involving nine accused. Thus by the end of 2004 a total of 25 persons will be on trial, bringing the total number of accused whose trials have been completed or are in process to 48.

Furthermore, the European Union notes that the three Trial Chambers of the ICTY examined six trials on the merits and two cases of contempt and rendered two judgements on the merits and nine sentencing judgements arising from nine guilty pleas. In addition, the EU notes that the Appeals Chamber disposed of a record number of appeals.

The European Union welcomes the commitment of the presidents of both Tribunals to the completion strategy, as well as to the reforms of the structure and operation of the Tribunals during the reporting period. The Tribunals should indeed make every effort to respect the deadlines as stipulated by Security Council resolutions 1503 (2003) and 1534 (2004). In that respect the European Union notes that the international community also has a commitment. Sufficient resources, cooperation, assistance and the support of Member States are essential to the work of the Tribunals.

It is crucial that States cooperate with regard to requests for access to archives and documents, securing the appearance in court of prosecution witnesses and the arrest and transfer of indictees still at large. We reiterate in particular the need to intensify efforts to arrest and transfer Radovan Karadzi□, Ratko Mladi□ and Ante Gotovina to the ICTY and Felicien Kabuga to the ICTR for trial.

In particular, the European Union would like to reaffirm that cooperation by Rwanda and by the countries of the western Balkans with the Tribunals remains essential. Furthermore, the EU is concerned about the impact which the non-payment of assessments by Member States has on the work of the Tribunals. It might seriously endanger their ability to fulfil their mandate within the framework of the completion strategy.

The European Union welcomes the efforts made by both Tribunals to transfer cases to domestic jurisdictions and the activities in the area of national capacity-building. The EU would like to restate its appeal to the Tribunals to ensure that the necessary standards of fair trial, independence and full respect for human rights are respected within trials in national courts.

Finally, I would like to reassure the Tribunals of the full support of the European Union and to thank all the members of the Tribunals and their Chambers, Appeals Chambers and Registries, as well as the Offices of the Prosecutors, for their contribution to peace, justice and the rule of law.

Mr. Drobnjak (Croatia): Croatia has aligned itself with the statement of the European Union on this significant agenda item. In addition, I would like to emphasize in brief several points of particular importance for my country.

Croatia highly commends the report of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and is pleased with the fact that it takes accurate note of the continuous and comprehensive efforts that Croatia has invested in ensuring full cooperation with the Tribunal. I would like to take this opportunity to thank President Meron for his words of praise for Croatia in this regard.

The successful implementation of the completion strategy remains at the forefront of Croatia's approach to the Tribunal. The fulfilment of this strategy in accordance with the 2004, 2008 and 2010 benchmarks, as outlined in Security Council resolutions 1503 (2003) and 1534 (2004), must remain our priority. Croatia stands ready to contribute to that goal to the best of its abilities.

Respecting the benchmarks is not just a question of the effective administration of justice. Just as important, it adds to the confidence-building and stabilization processes in the region. We are already approaching the first of the three completion strategy benchmarks — the completion of all investigations by the end of 2004. With the investigative process done, it should be easier to focus on the remaining tasks and shift necessary resources, on both the technical and the political sides of the spectrum, in that direction.

The referral of cases to competent national jurisdictions for trial remains one of the pillars of the completion strategy. Croatian judges and prosecutors are ready for that serious task. In several cases they have already demonstrated their high professional standards in that demanding and enormously sensitive domain. I would like once again to express our gratitude to the Tribunal and its experts for the valuable technical and counselling assistance provided to Croatia's judiciary, thus helping it to enhance its capacity to prosecute war-crime cases in a professional and non-biased manner.

The area of the former Yugoslavia is turning into a zone of peace and stability. As I speak, the Croatian Prime Minister, Mr. Ivo Sanader, is making an official visit to Serbia and Montenegro, strengthening good neighbourliness, confidence-building and cooperation between Zagreb and Belgrade. The past is not forgotten — nor should it be. But it is the future that guides and inspires us. It is against the background of new regional stability that we must evaluate the work of the ICTY and the imperative to complete its remaining tasks efficiently and on time.

Croatia has already stated from this rostrum that certain interpretations by the Prosecutor regarding the historical background and political genesis of the conflict in the former Yugoslavia, as well as the character of the consequent military operations, appeared not to be fully in line with the General Assembly resolution on the occupied territories of Croatia or with the spirit of several important Security Council resolutions. However, that will in no way impede Croatia's readiness to cooperate fully with the ICTY. After all, the Tribunal remains the place where the innocence or guilt of any and every indicted person must be determined. It has been wisely said that justice is truth on the march. We are confident that both justice and truth will be served well.

As an early advocate of the Tribunal and its goals, Croatia has established a long and largely successful record of cooperation with the ICTY. Being a candidate country for membership in the European Union, Croatia is perfectly aware of the importance of cooperation with the ICTY. Croatia will therefore continue to fulfil all of its related obligations and will take, within its own borders, all measures required for prosecuting the perpetrators of war crimes.

Mr. Rahman (Malaysia): I should like to thank The Honourable Judge Erik Møse, President of the International Tribunal for Rwanda (ICTR), and The Honourable Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia (ICTY), for introducing the reports of the two Tribunals and for their excellent leadership of the Tribunals during the respective reporting periods. The reports provide a comprehensive review of the progress of the work of the Tribunals, as well as of the difficulties encountered by them. We commend both Presidents, as well as the members of the Chambers, Prosecutors and the Registries of both Tribunals for the progress achieved so far.

Malaysia continues to believe strongly in the importance of upholding the principles of justice and equality, which international humanitarian law stands for. We regard adherence to the rule of law as a necessary basis for upholding those principles. The Tribunals were established, among other reasons, to bring to justice persons allegedly responsible for violations of international humanitarian law and to contribute to the restoration of peace by promoting reconciliation in the former Yugoslavia and in Rwanda. Since their creation, the Tribunals have played a significant role in clearly demonstrating that genocide and other serious violations of international humanitarian law cannot be tolerated. The Tribunals exist in order to ensure that the perpetrators of genocide and other serious violations of international humanitarian law will not get away with impunity.

The work of the Tribunals is of immense importance in bringing to justice the perpetrators of atrocities and in the development of international justice and international law. There is no doubt that the decisions of the Tribunals have contributed to the progressive and constructive development of case law in the spheres of general international law and international humanitarian law in respect of different questions of procedure and competence, as well as in substantive issues of considerable importance. The Tribunals have led to pioneering advocacy for victim-oriented restitutive justice in international criminal law.

Malaysia is pleased to note that the both the ICTY and ICTR have focused considerable efforts on the implementation of their completion strategies, as set out in Security Council resolutions 1503 (2003) and 1534 (2004). The completion strategies call on the ICTY and the ICTR to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008 and to complete all work by 2010. We take note of the substantial structural changes that have been made in order to facilitate that process.

I would first like to comment on the activities of the International Criminal Tribunal for Rwanda. Malaysia is pleased to note from the report that the ICTR has undertaken further measures to improve its performance in expediting proceedings in the interest of completing its mandate. These improvements have enabled the Tribunal to accelerate its work towards completing all trials by 2008. One of the biggest structural reforms of the ICTR has been the appointment of its own Prosecutor, following, perhaps, a belated acknowledgement by the Security Council that it would not be possible for one person to hold the position of Prosecutor for two Tribunals. We commend the work of the Prosecutor, Mr. Hassan Jallow, who took office in September 2003, and note his efforts in taking steps to ensure the implementation of the completion strategy through the Completion Strategy Monitoring Committee. With the establishment of the Appeals section, the work of the Court has been further accelerated.

The enlargement of the pool of ad litem judges for the Tribunal from four to nine would allow the Tribunal to increase its judicial productivity and meet the demands imposed by the rise in cases. The Tribunal must be in a position to undertake its tasks efficiently, so that detainees are spared undue delay in the completion of their trials. With the appointment of these ad litem judges, the ICTR should be able to meet its target of completing all trials by 2008. My delegation is pleased that a Malaysian judge has been appointed and is able to contribute to the process through his service as an ad litem judge.

I would now like to turn to the International Criminal Tribunal for the Former Yugoslavia. My delegation notes with appreciation that the Tribunal has undergone structural and operational reform during the reporting period. The most significant internal reform was the amendments of rule 28 and 11 bis of the Rules of Procedure and Evidence to enable the Tribunal to determine the seniority criterion in the review and confirmation of new indictments and the expansion of the national jurisdiction, so that cases involving intermediate and lower-level accused can be transferred to national jurisdiction.

Malaysia notes that one of the durable legacies of the ICTY will be the strengthened criminal justice system in Bosnia and Herzegovina. The establishment of a special chamber for war crimes prosecutions is crucial to enable the ICTY to complete its work by 2008. The establishment of this War Crimes Chamber is part of the wider ongoing judicial reform in Bosnia and Herzegovina. We are pleased to note that the establishment of the task force by the Tribunal has helped accelerate the establishment of this Chamber, which is expected to be fully operational in 2005 following the amendments in the Bosnia and Herzegovina Parliament.

We also note that, while the ICTY has made every effort to be more efficient and expedite matters more quickly, one of the biggest challenges is the reluctance of some States in the region to offer full cooperation, in particular their refusal to turn suspects over to the Tribunal. As indicated in the report, there has been no major progress in the arrest and transfer of indictees, except in Croatia. We are concerned that the lack of cooperation could prevent the Tribunal from meeting its 2008 deadline. The countries concerned must meet, without hesitation, the call for cooperation by the Prosecutor.

The work of the ICTY and the ICTR has greatly contributed to the field of post-conflict justice — not only in furthering international criminal jurisprudence on matters such as individual responsibility, the ability to exercise jurisdiction over crimes committed in international conflicts, but also in terms of procedural refinements. In reiterating its fullest support for both the Tribunals, Malaysia calls, once again, on the international community to give full and sustained support to the Tribunals in carrying their mandate and objectives. The sustained commitment by major Powers is also crucial. The delivery of justice is important for a sustainable peace-building process. Without justice there will be no peace.

Mr. Ozawa (Japan): At the outset, I would like to thank both President Theodor Meron and President Erik Møse for presenting their annual reports to the General Assembly. Japan appreciates their efforts to implement the completion strategies for both Tribunals, and hopes that they will strengthen those efforts. The fact that we have now received the eleventh annual report of the ICTY and the ninth annual report of the ICTR indicates very clearly that many years have passed since the establishment of the two Tribunals. A prolonged judicial process does not necessarily contribute to better justice, and this is why, we believe, the Security Council endorsed the completion strategies. The Presidents of both Tribunals should do their utmost to ensure that this goal is met, and to complete the first phase of the completion strategy, the investigation work, by the end of this year.

Allow me to make a few comments on the work of the ICTY. First of all, I would like to express my sincere condolences on the passing of Judge Richard May this past July. We commend his contribution to the work of the Tribunal, and in particular his able leadership in his capacity as Presiding Judge of the Milosevć trial.

Regarding the speed of the work of the ICTY Chambers, we acknowledge the fact that the Tribunal's three Trial Chambers ran six trials simultaneously throughout the year covered by the report. We hope the Trial Chambers will continue its work in this manner in order to maintain and further enhance the efficiency of the Court.

Needless to say, the continuity of the work of the ICTY is very important. In this regard, we hope that the permanent judges to be elected in the elections on Thursday, 18 November, in the General Assembly will heed the importance of this continuity and promote the completion strategies by making plans regarding the schedule of the trials well in advance of the commencement of their terms on 17 November 2005. In a similar light, we also hope that the terms of the ad litem judges will be examined with the aim of maintaining the continuity of the work of the ICTY.

The ICTY was established to bring to justice those responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia. As such, Japan fully shares the concern expressed by the Prosecutor that Radovan Karadzić, Ratko Mladić and Ante Gotovina are yet to be arrested. It is therefore essential that the countries concerned cooperate and provide support, not only in the process of arresting those fugitives but also by providing other necessary means for obtaining access to witnesses, archives and other crucial evidence. Such cooperation is required in order to avoid any waste of time in fulfilling the mandate of the ICTY.

Next, let me turn to the work of the ICTR. First, we have been impressed by the fact that the *Ndindabahizi* trial, which began on 1 September 2003, was completed in less than one year, with judgement being rendered on 15 July 2004. We were likewise pleased to note that in the *Muhimana* trial, which commenced on 29 March 2004, 19 prosecution witnesses were heard in a period of 20 trial days. These results confirm that the efficiency of the trials has been enhanced.

Secondly, my Government welcomes the commencement of work by Mr. Jallow, the Prosecutor of the ICTR, whose position was established by Security Council resolution 1503 (2003). We commend the fact that Mr. Jallow has communicated with the Rwanda Government on a regular basis and is conducting more in-depth discussions with it on the transfer of cases to Rwanda. It is especially commendable that he has made efforts to get the local people more involved in the judicial process, which enables them to achieve justice while maintaining ownership. Japan hopes that the cooperation and dialogue between the ICTR and the Rwanda Government will be further strengthened.

As a final point, let me reiterate one lesson that we have learned from the ICTY and the ICTR. The member States cannot fund the expenses for the pursuit of justice unlimitedly. The Secretary-General pointed that out in his report on the rule of law and transitional justice, and the importance of that lesson was also underscored by many of the Member States participating in the open debate at the Security Council on 6 October. The Secretary-General stated in his report that

> "The stark differential between cost and number of cases processed does raise important questions… In addressing these cost-related issues, high priority should be given to consideration of the need to provide for an effective system for delivery of justice". (*A/2004/616*, para. 42*)

Although we do note from the presentations by the Presidents of both tribunals that efforts have been made to address that issue, the current gap between cost and the number of cases processed is still inappropriate. We believe that the operation and cost of the Tribunals should be phased down in accordance with the completion strategies. With those concerns in mind, Japan strongly hopes that the ICTY and the ICTR will continue to maximize their efforts to conduct fair trials in an efficient and effective manner, under the leadership of their Presidents, in order to fulfil their commitments to the completion strategies endorsed by the Security Council.

Mr. Shin (Republic of Korea): At the outset, allow me to express my sincere gratitude to the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Theodor Meron, and to Judge Erik Møse, President of the International Criminal Tribunal for Rwanda (ICTR), for their detailed and informative reports.

I also would like to express my deep appreciation to Ms. Carla del Ponte, the Chief Prosecutor of the ICTY, and its 25 judges, including nine ad litem judges, for their hard work and dedication to the realization of international justice. My heartfelt thanks also go to Mr. Hassan Bubacar Jallow, the Chief Prosecutor of the ICTR, and its 25 judges.

Since they were established as the precursor of a permanent international criminal court in the 1990s, the ICTY and the ICTR have made great contributions towards the development of international criminal law and international humanitarian law by accumulating important judicial precedents regarding genocide, crimes against humanity and serious war crimes. Thanks to the pioneering work of the two Tribunals, valuable lessons are now available for the International Criminal Court, which has just begun investigations in the Democratic Republic of the Congo and Uganda. Those lessons are also applicable to the Special Court for Sierra Leone, war crimes prosecutions in Kosovo, the East Timor Special Panels for Serious Crimes and the Extraordinary Chambers of Cambodia.

We believe that, in order to achieve the objective of eliminating the culture of impunity that exists during armed conflicts and post-conflict situations, it is important for the international community to establish a seamless web of transnational justice that can embrace both international and domestic jurisdictions together. Through such efforts, the international community will be able to avoid any impunity gap that may arise out of the presence of various judicial organs designed to punish international crimes, including international courts, special hybrid courts and domestic courts. Furthermore, it would be desirable to explore the possibility of creating a consulting mechanism among the various judicial bodies to share valuable experiences and information on the operation of the courts. In our view, now is the time for the international community to seriously consider how to avert or minimize the possible fragmentation of international jurisprudence on international criminal law that could result from having diverse judicial institutions.

My Government commends the tireless efforts of the ICTY and the ICTR to enhance efficiency in their proceedings, which will better enable them to carry out their completion strategy within the target date. The completion strategy they have pursued involves conducting trials simultaneously while referring cases of relatively less serious importance to domestic jurisdictions equipped with the necessary capacity and personnel. That approach allows the two Tribunals to focus on the most senior echelon of perpetrators who have committed egregious crimes of international concern, opening the door to achieving the complementarity of international and domestic jurisdiction in an effective manner.

One of the important lessons the two Tribunals have demonstrated to the international community is the wisdom of mapping out a division of work between international and domestic jurisdictions at an early stage of trials. In light of their deterrent effect, it is natural that international criminal courts should concentrate on the most important cases, both for the seriousness of the crimes involved and the symbolic meaning of putting high-level, high-profile suspects on trial. Moreover, the enormous cost of running the two Tribunals makes it both desirable and imperative to follow that division of work in order to lessen their heavy resource burden. The Republic of Korea hopes that the International Criminal Court, the Special Courts and other courts will take full account of that valuable lesson in their future activities.

In that regard, my delegation deems it crucial for the international community to provide assistance to the relevant domestic courts to facilitate their exercise of judicial functions in a transparent manner. We also appreciate the valuable cooperation of those States that have signed an agreement with the United Nations to allow persons convicted by the Tribunals to serve out sentences in their territory or to provide assistance in the relocation of witnesses.

The Republic of Korea would like to underscore the pressing need for the Governments in the regions to fully cooperate in arresting the accused who remain at large and to procure witnesses, documents and other relevant evidence. It is a source of concern for us that Radovan Karadzi□ Ratko Mladi□ and Ante Gotovina, three high-level leaders indicted by the ICTY, and Felicien Kabuga, indicted by the ICTR, have not yet been apprehended and brought before the Tribunals. We believe that the Tribunals' work will not be complete until those individuals are brought to justice. In that regard, current efforts to apprehend those indictees should be intensified. We ask for prompt, concerted action by the States in the regions to bring the accused in for trial in order to allow the Tribunals to finish their trials by 2008 and to complete the appeals phase by 2010.

While we support the two Tribunals' recently adopted reforms to refer cases involving mid- and low-level criminals to national court jurisdictions, we also note the importance of outreach programmes to dispel any possible wrong-headed notion that international justice is dispensed in a less than transparent way. My delegation considers the practice of negotiating guilty pleas, which was introduced in 2002, to be helpful in economizing costs. However, the Tribunals must strike a delicate balance between the need to preserve a sense of justice for victims and the international community and the interests of delivering justice in a cost-efficient way. Against that backdrop, it is essential for the States exercising jurisdiction over the cases to maintain visibility of justice and to engage in outreach activities, both on their own and in cooperation with the ICTY and ICTR.

In conclusion, my delegation reaffirms its strong support for the work of the ICTY and the ICTR in administering international criminal justice and in setting valuable and important precedents in international criminal law and international humanitarian law.

Mr. Loncar (Serbia and Montenegro) (*spoke in Serbian; English text provided by the delegation*): At the outset, allow me to thank you, Sir, for the opportunity to present, on behalf of the State Union of Serbia and Montenegro and in my capacity as a member of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), our positions on the question under consideration. I would also like to thank the President of the ICTY for his comprehensive briefing.

First of all, let me take this opportunity to reaffirm that Serbia and Montenegro advocates the administration of international justice through the individualization of criminal responsibility. As a United Nations Member State in particular, Serbia and Montenegro recognizes its obligation to cooperate with the ICTY. My country believes that it is in the best interest of the State Union of Serbia and Montenegro, as well as of the other States that emerged from the former Yugoslavia, to bring to justice all those responsible for grave violations of international humanitarian law, irrespective of their ethnic origin, either in proceedings before the ICTY or in trials before the national courts.

I am pleased to be in a position to report on the latest aspects concerning cooperation between Serbia and Montenegro and the Tribunal. Following several election campaigns — early parliamentary elections in Serbia late last year; presidential elections in Serbia in June this year; and municipal elections in Serbia in December — that resulted in certain technical delays in cooperation in the first half of this year, the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia was established as a legal and competent body and became fully operational in July. Serbia and Montenegro is providing effective assistance to the Office of the Prosecutor and the ICTY in tracking down, interviewing and taking testimony from witnesses and suspects. The Council of Ministers of Serbia and

Montenegro and the Government of the Republic of Serbia have so far granted waivers for State, official and military secrets to 316 members of the army, police officers and Government officials.

Since the new National Council was created, 53 waivers have been granted, including those to be confirmed at the session of the National Council scheduled for 16 November, for which the Government of Serbia has already granted waivers. The National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia, acting on requests from the Office of the Prosecutor for waivers, has granted all waivers requested by 15 September. The requests received after that date are currently being processed by the Council and will be completed within a reasonable period of time. Thus, not all requests for waivers mentioned in the present report have been met. As I said, new requests for waivers are coming in every day and are being duly processed.

The Office of the Prosecutor has so far been provided with several thousand documents, including classified documents from sessions of the Supreme Defence Council, the Parliament of the Republic of Serbia, the Counter-Intelligence Service of the Army of Serbia and Montenegro, the Ministry of the Interior of Serbia and Montenegro, and so on. Since the new National Council was constituted, 21 requests for documents have been granted.

I am afraid that I cannot fail to mention certain objective obstacles that State officials and civil servants have encountered in fulfilling requests for documents. Most of the documents originate from 1991 and 1992 and some are unavailable due to negligent practices or misconduct by some officials. In such cases, criminal proceedings have been instituted. Some of the documents were destroyed in the 1999 North Atlantic Treaty Organization air strikes, since most were kept in military and police facilities that were exposed to severe fire. We have to bear in mind that some requests for documents are not entirely precise and that the Office of the Prosecutor should provide additional clarification. Despite the obstacles and sometimes complicated administrative and bureaucratic procedures, the pace of making the documents available to the Prosecutor has significantly improved in recent months.

The competent State authorities, particularly with respect to Ratko Mladić, are undertaking a number of credible and verifiable activities to establish whether he is in the territory of our country. Several operations have already been undertaken, but no viable evidence has emerged that Mladić is in the territory of the State Union.

As a sign of intensified cooperation with the ICTY, several high-ranking State officials met with the President of the ICTY, Judge Meron, and Chief Prosecutor Del Ponte. The President of the National Council, Minister Ljajic, met with the top ICTY officials in The Hague in September. The Chief Prosecutor visited Belgrade on 30 September and 4 October and met Serbia and Montenegro's top Government representatives, including the President of the State Union, Mr. Marović; the President of Serbia, Mr. Tadić; Foreign Minister Drašcović; and the Serbian Prime Minister, Mr. Kostunica. The exchange of visits demonstrated the readiness of Serbia and Montenegro to continue to cooperate fully with the ICTY in all sectors, on the one hand, and the understanding of its internal difficulties, on the other. Those visits have significantly contributed to the re-establishment of an atmosphere of mutual confidence and openness.

On 9 October, Colonel Ljubiša Beara of the Republika Srpska Army and one of the most wanted suspects in the Srebrenica massacre, voluntarily surrendered to the Serbian authorities. He was immediately transferred to The Hague, accompanied by the Minister of Justice of Serbia, Mr. Stojkovic. Counting Colonel Beara, the number of indictees transferred from Serbia and Montenegro to the Tribunal since January 2003 amounts to 24. Serbia and Montenegro continues to take all necessary measures to arrest the remaining fugitives who are believed to be in its territory.

The authorities of Serbia and Montenegro, together with the Organization for Security and Cooperation in Europe's Representative Office in Belgrade, have launched a campaign to raise public awareness in Serbia and Montenegro on the need to cooperate with the ICTY.

Successful cooperation with the ICTY also means adequate public understanding and support for the people of Serbia and Montenegro vis-à-vis the actions of the competent authorities. At this point, cooperation with the ICTY should go both ways, particularly with regard to provisional release until trial of some of the indictees who surrendered voluntarily and for whom the Government of Serbia provided proper guarantees to the Tribunal. The authorities of Serbia and Montenegro and the Government of the Republic of Serbia continue to work hard to fulfil their international obligations to the ICTY. One of the ways to fulfil those obligations successfully is to voluntarily surrender accused persons.

Along with Bosnia and Herzegovina, Serbia and Montenegro has adopted a regional approach to cooperation with the ICTY. After the visit of the President of the National Council to Sarajevo earlier this year, a joint commission of competent authorities from the two countries was established to monitor the border and stop fugitives from crossing it.

Serbia and Montenegro adds its voice in support of the Tribunal's completion strategy as specified in Security Council resolutions 1503 (2003) and 1534 (2004). The essential precondition for the success of that strategy is the existence and ability of domestic jurisdictions to try referred cases and to meet international legal standards in the proceedings.

The Ovčara case is currently being tried by the War Crimes Panel of the Belgrade District Court, in close cooperation and consultation with the ICTY. The Belgrade District Court War Crimes Prosecutor is also actively cooperating with the ICTY Prosecutor in preparing other cases, as a result of which another case was transferred to the Belgrade District Court.

Our authorities — namely, the Ministry of Justice of the Republic of Serbia — have drafted and sent to the parliament a new law regulating witness protection and the recognition of evidence gathered in non-domestic courts and prosecution offices. Serbia and Montenegro is willing and adequately prepared to prosecute referred cases in its own courts. The Belgrade District Court and its judges and the War Crimes Prosecutor are professionally and technically capable of prosecuting those cases according to internationally recognized standards of justice. That was recognized by the Prosecutor in the Kovačević case when the accused was transferred to Serbia despite the strong pressure brought to bear on the authorities in 2002 and 2003 to have him arrested and transferred to The Hague. That case demonstrates that there is a need for a two-way, mutually beneficial model of cooperation with the ICTY. Serbia and Montenegro awaits the transfer of further cases to be processed before its domestic courts.

In order to improve our capacity to prosecute war crimes, we look forward to further training opportunities for judges and prosecutors from Serbia and Montenegro. We look forward to similar opportunities with regard to assistance in amending domestic criminal legislation in line with ICTY standards.

All of Serbia and Montenegro's leaders — including President Marović, Serbian President Tadić, Prime Minister Koštunica and Foreign Minister Drašković — advocate the fulfilment of all of Serbia and Montenegro's obligations to the ICTY. We believe that the future of all the countries of the former Yugoslavia lies in their integration with Europe. That will not be possible without full reconciliation among the peoples of the former Yugoslavia. Serbia and Montenegro will continue to cooperate fully with the ICTY. Our domestic courts are now ready to bring to justice all those individually responsible for the war crimes committed in the territory of the former Yugoslavia.

Mr. Kusljugić (Bosnia and Herzegovina): Allow me to take this opportunity to thank the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Theodor Meron, and Chief Prosecutor Carla Del Ponte for their annual report (A/59/215) and for their very clear and straightforward messages with regard to the Tribunal's current problems, which they articulated in their statements. Bosnia and Herzegovina once again reaffirms its support for the Tribunal and commends its entire staff for their efforts to prevent impunity and bring to justice those responsible for the most serious crimes against humanity, thereby setting new milestones in international criminal justice.

In the 11 years of its existence, the ICTY has established itself as an impartial, professional and competent institution. Its role was twofold. On the one hand, its historical role was to set the record straight and to individualize responsibility for some of the most gruesome crimes against humanity, thereby relieving the participants to the conflict of collective guilt. On the other hand, but no less important, was its role as a pioneer in international criminal justice, thereby paving the path for the Rome Statute and the establishment of the International Criminal Court. In the meantime, preventing impunity has become a widely accepted international practice, and the investigations, processes and verdicts of both the ICTY and the International Criminal Tribunal for Rwanda (ICTR) have become an important part of international judicial practice.

One hundred and four accused war criminals have appeared in proceedings before the ICTY. Fifty-two of them have received Trial Chamber judgements, 30 have received their final sentences and 10 convicts have already served their sentences.

We regret to learn from President Meron that international financial assistance for the Tribunal appears to be drying up. On behalf of my country, I would like to reiterate the call to the main contributors to continue their support to the Tribunal for as long as it is necessary.

Bosnia and Herzegovina would like in particular to underscore the role of the Tribunal in the individualization of war crimes as a precondition for sustainable interethnic reconciliation in the country and in the region as a whole. We believe that the gestures made by indictees who not only pleaded guilty but also expressed remorse to the victims for the crimes they committed represent a milestone in the reconciliation process. In that respect, the increase in the number of guilty pleas has particular significance legally and historically, as well as for the hundreds of thousands of the victims of war crimes.

Bosnia and Herzegovina remains determined to continue to meet its obligations with regard to cooperation with the ICTY. Our record with respect to the arrest and transfer of indictees still at large, requests for documents, access to archives and ready availability of witnesses has improved in the last year.

Last Monday, the human rights chamber of the Constitutional Court of Bosnia and Herzegovina accepted the report of the Government of the Republika Srpska on the events in and around Srebrenica in July 1995. The report not only contains the names of more than 7,800 victims and discloses several new locations of mass graves, it also accepts the share of responsibility placed upon the Republika Srpska and expresses remorse to the families of the victims. By completing its report, the Special Commission on Srebrenica laid a foundation for successful post-war reconciliation.

However, despite the evident progress in cooperation with the Tribunal, many indicted war criminals have still not been apprehended. That creates a major obstacle to interethnic reconciliation because, in order for the country to come to terms with its tragic past and move on, all indictees must go to The Hague to face justice. That was also the reason Bosnia and Herzegovina was denied membership in the Partnership for Peace at NATO's Istanbul Summit in June of this year. Allow me to quote what NATO leaders said in that regard at Istanbul.

> "We are concerned that Bosnia and Herzegovina, particularly obstructionist elements in the Republika Srpska entity, has failed to live up to its obligation to cooperate fully with ICTY, including the arrest and transfer to the jurisdiction of the Tribunal of war crimes indictees, a fundamental requirement for the country to join Partnership for Peace."

The European Union has also reiterated that full cooperation with the ICTY on the part of the countries of the Western Balkans remains the essential element of the European Union's Stabilization and Association Process. The Union also underscored that failure to cooperate fully with the ICTY would seriously jeopardize further movement towards the European Union. It is therefore clear that the failure to cooperate fully with the ICTY is now the main obstacle to Bosnia and Herzegovina's becoming a stable, peaceful and prosperous European democracy.

Criminal files against 5,908 persons have been submitted to the Prosecutor's Office for review, but only about 100 persons have been brought before the courts. Hundreds, perhaps even thousands, of suspected perpetrators of serious war crimes committed in Bosnia and Herzegovina have therefore not even been charged. They include community members, outsiders who may have contributed to the outbreak of violence and bystanders who did not participate in crimes but also did not intervene to stop them.

Based on its exit strategy, the ICTY intends to transfer to domestic courts the dossiers of unfinished investigations and investigative materials. It will then be up to domestic judicial and prosecutorial authorities to act on those cases. That process will begin next year and will represent a serious test for the maturity of the domestic courts. It will also be an important step in the building of institutions of justice in Bosnia and Herzegovina, which will contribute to significant progress towards the creation of a society based on the rule of law and respect for human rights. In that respect, it is very important to complete the process of staffing and budgeting the special war crimes chamber of Bosnia and Herzegovina's State Court while taking into account the considerable workload to be put before it in the near future.

Regarding the external component of the ICTY's completion strategy, Bosnia and Herzegovina welcomes the cooperation between the ICTY and the Office of the High Representative in the process of establishing a special chamber for war crimes prosecutions in the State Court of Bosnia and Herzegovina. We call upon Member States to provide the necessary technical and financial support for its functioning. We also fully support the significant work being done by the missions of the Organization for Security and Cooperation in Europe (OSCE) in the region to promote the rule of law, including by strengthening national judicial systems and supporting police reform. The monitoring of domestic war crimes trials constitutes an essential contribution in that regard. We welcome proposals for greater involvement by the OSCE in support of the ICTY's completion strategy.

Mr. Strømmen (Norway): Let me begin by expressing Norway's full recognition of the achievements and the high standards of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), as reflected in various judgements and in the reports before us (A/59/183 and A/59/215). We would like to thank the Presidents of the Tribunals for the detailed annual reports, which in our view accurately reflect the progress made during the period under review.

While the work of the Tribunals has played a crucial role in advancing the cause of justice in Rwanda and the former Yugoslavia, the Tribunals have a broader significance as well. They represent effective systems of international criminal law and leave a legacy of international jurisprudence that can guide other courts, including the International Criminal Court, and discourage the commission of the worst crimes of international concern. Thus they contribute to the development of international criminal justice and the fight against impunity for mass atrocities in general.

During the period under review, cooperation between the two Tribunals has been enhanced and expanded to include the Special Court for Sierra Leone and the International Criminal Court. Norway appreciates the increased exchange of information and experience and the undertaking of joint activities, which help to strengthen international criminal justice.

We commend both Tribunals on their efforts to put the completion strategies into effect. The Tribunals have increased their efficiency significantly, and both are on schedule. However, their financial situation of the Tribunals is deeply worrying and could severely threaten the implementation of the completion strategies. Sixty per cent of Member States are in arrears. The financial situation has led to a freeze on new recruitment, which prevents both Tribunals from recruiting, and even replacing, essential personnel. We therefore appeal to all States that have not yet done so to honour their financial commitments and to pay their assessed contributions as soon as possible.

According to the report of the ICTR, 25 persons will be on trial by the end of 2004, bringing the number of accused whose trials have been completed or are in process to 48. The ICTY has also continued to operate at full capacity, running six trials simultaneously, and has rendered judgements in a record number of trials and appeals proceedings.

Norway is pleased to be able to finance the construction of a fourth courtroom at the ICTR, which will further increase the Tribunal's trial capacity. That contribution is testimony of our continuing strong support for the Tribunal, which was underlined by Norwegian Prime Minister Bondevik's visit to the Tribunal on 11 October.

In implementing the completion strategies both Tribunals have resolved to concentrate on the most senior leaders suspected of bearing the greatest responsibility for the crimes within their jurisdiction. At the same time, the Tribunals have focused on transferring cases involving intermediate and low-level offenders to national jurisdictions. That is essential if the Tribunals are to complete their work by the deadline of 2010. It is equally important that they receive the full support and cooperation of the international community.

We are encouraged by the establishment of the War Crimes Chamber of the State Court of Bosnia and Herzegovina and the intent to commence domestic war crimes prosecutions in January 2005. We are also pleased to hear that preconditions for referring cases to Rwandan courts have been established.

The Tribunals' increased cooperation with States, relevant institutions and non-governmental organizations is partly a result of the expanded activities and continuous development of the Tribunals' outreach programmes. Norway commends their efforts to strengthen national jurisdiction in their handling of war crimes cases and to provide accurate information about their activities in order to raise awareness of, and support for, their work.

Norway welcomes the unanimous adoption by the Security Council in March of a resolution reaffirming the need to intensify efforts to arrest and transfer the main fugitive indictees and bring them to trial — including Radovan Karadzić, Ratko Mladić and Ante Gotovina to the Yugoslav Tribunal and Felicien Kabuga to the Rwanda Tribunal. Unless the highest-ranking indictees are brought to justice, the main mission of the Tribunals will not be fulfilled. We applaud the Croatian authorities for their improved cooperation during the period under review, and we expect them to continue doing their utmost to ensure that General Gotovina is brought to The Hague.

All States must honour their international obligations to cooperate with regard to requests for access to archives and documents, surrendering indictees, providing full and effective assistance with regard to witnesses, giving financial and material support and, not least, providing practical assistance in the enforcement of sentences. The Norwegian Government has demonstrated its willingness to consider applications from the ICTY concerning the enforcement of sentences and, subsequently, in conformity with national law, to receive a limited number of convicted persons to serve their sentences in Norway. We encourage other States to prove their continued commitment to the work of the Tribunals through concrete action in this crucial field.

Let me conclude by thanking all the members of the Tribunals for their tireless efforts in carrying out our common task. I can assure you that we will stand by our long-term commitment to the successful completion of the missions assigned to the two Tribunals by the Security Council.

Ms. Moore (United States of America): The United States remains strongly committed to supporting the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The United States appreciates the work of both Tribunals in bringing to justice those most responsible for serious violations of international humanitarian law.

With regard to the ICTY, we must all work together to ensure success of the Security Council-endorsed completion strategy that seeks to conclude investigations by the end of 2004, trials by 2008 and all work by 2010. To fulfil that programme, Serbia and Montenegro, Bosnia and Herzegovina and Croatia must fulfil their legal obligations to cooperate fully with the ICTY. Such cooperation includes not only access to archives and witnesses, but also apprehending all fugitive indictees within their territory and transferring them to The Hague, most notably Ratko Mladić, Radovan Karadzić, and Ante Gotovina. In that regard, we note that the Republika Srpska has failed to render a single fugitive indictee to the Tribunal and Serbia and Montenegro's cooperation has deteriorated to a standstill in the past 12 months. The United States and others in the international community have made clear that upholding international obligations to the ICTY is a prerequisite for further integration into the Euro-Atlantic community.

Serbia and Montenegro's lack of cooperation with the ICTY also undermines the confidence of the international community that it is willing and able to prosecute fairly and effectively perpetrators of war crimes and crimes against humanity. Until Serbia meets its cooperation obligations, we do not see domestic trials of ICTY indictees as a realistic option. We call on all authorities in Serbia, especially the Prime Minister as head of the Government, to act immediately to apprehend and render to The Hague all fugitives hiding in the country.

We continue to support efforts to help create the capacity for credible domestic trials of low- and mid-level war crime cases throughout the region. We note the significant work being done in Sarajevo in that regard and urge other States to contribute to this court either through direct financial assistance or in-kind contributions.

The United States has completed the transfer to the United Nations of all of its 2004 assessed contributions for the ICTY and is committed to significant financial and diplomatic support to the ICTY.

With regard to the ICTR, first we note and commend the increased pace of trials under the leadership of its President. We urge all States, especially the Democratic Republic of the Congo, the Republic of the Congo and Kenya, to fulfil their international obligations to apprehend and transfer to the Tribunal Felicien Kabuga and all other persons within their territory who have been indicted for war crimes by the ICTR. Those fugitive indictees continue to incite conflict in the Great Lakes region and must be actively pursued and apprehended, as called for repeatedly by the Security Council.

Mr. Awanbor (Nigeria): I would like to congratulate Judge Erik Møse, President of the International Criminal Tribunal for Rwanda (ICTR), and Judge Theodor Meron, President of International Criminal Tribunal for the Former Yugoslavia (ICTY), for their detailed reports on the activities of their respective Tribunals.

The Nigerian delegation appreciates the fact that the Tribunals are engaged in an historic and fundamental undertaking that is of great significance for humanity. They indeed reaffirm the collective resolve of Member States of the United Nations to ensure respect for international humanitarian law, fundamental human rights and the rule of law. By establishing those two Tribunals, the international community has resolved to put a stop to the perpetration of genocide and other heinous crimes against humanity.

My delegation is, therefore, delighted to note the significant progress made by both the ICTY and the ICTR in fulfilling their respective mandates concerning prosecution of persons responsible for serious violations of international humanitarian law in the former Yugoslavia since 1991 and in Rwanda between 1 January and 31 December 1994.

It is gratifying to note that the cooperation between the two Tribunals has been expanded and strengthened to include the Special Court for Sierra Leone and the International Criminal Court. The exchange of information and experience and the undertaking of joint activities by those two judicial bodies have contributed greatly to the strengthening of international criminal justice. In that regard, we believe the pioneer work of the Registrar of the ICTR in the area of restitutive justice has impacted positively on the Statute of the International Criminal Court.

It is our belief that the Rwanda Tribunal, through its work, has made a significant contribution to the enrichment of international jurisprudence and the rejection of the culture of impunity by replacing it with the values of accountability and the rule of law. For example, the Tribunal's decisions are already creating a substantial body of case law, which is being acknowledged by the ICTY and by national courts across the world. It is pertinent to mention that during the period under review, the ICTR released a second edition of its CD-ROM on basic documents and case law, covering the period from 2001 to 2002.

Accordingly, we commend the ICTR for having delivered 17 judgments involving 23 accused since the commencement of the first trial in January 1997. It is encouraging to learn that 20 accused have been convicted and three acquitted and that 25 persons will also be on trial by the end of this year, bringing the total number of accused persons to 48. We note that the trials of 16 current detainees are expected to start from 2005 onwards.

Concerning the completion strategy, it is gratifying that the ICTR is on schedule to complete all trials by 2008, in accordance with Security Council resolution 1503 (2003). It is proper that the Prosecutor would concentrate on those individuals who held leadership positions as bearing the gravest responsibility for the crimes committed, while those that have been classified as having participated in medium- to low-level crimes would be transferred to national jurisdictions for trial. We call for the cooperation of States to facilitate the arrest and transfer of the 17 indictees and 16 suspects who remain at large. For that purpose we further call for the strengthening of national legal systems in the effort to ensure a smooth transfer of identified individuals to national jurisdictions for trial.

We commend the Rwanda Tribunal for its efforts to enhance its operational efficiency through the management reforms and organizational restructuring undertaken in the immediate Office of the Registrar and other important sections of the Judicial and Legal Services Division, as well as the Division of Administrative Support Services. The re-amalgamation of the witnesses and victims support mechanisms of the Registry into a single section and remerger of the management of the United Nations Detention Facility with that of the Defence Counsel to form the Defence Counsel and Detention Management Section are important changes. We commend the Registrar's determined efforts and initiative to promote better knowledge and awareness at various levels of civil society about the work of the ICTR, particularly, in Rwanda and the Great Lakes region. We appreciate the significant improvements in both the records-keeping and the dissemination of judicial documents at ICTR by the provision of an up-to-date database of the judicial records intended for public access through the Tribunal's web site.

Concerning the ICTY, we commend the important initiatives taken by the Tribunal to increase the efficiency and pace of its proceedings, which has enabled the Trial Chambers to examine six trials on the merits, two cases of contempt, two judgements on the merits, and nine sentencing judgements arising from nine guilty pleas. It is equally remarkable that the Appeals Chamber was able to dispose of 17 interlocutory appeals, four appeals from judgement and one request for review, during the period under review.

We note with satisfaction the internal reforms in ICTY, which are geared towards the Tribunal's completion of its work within the deadline. It is significant that the internal reforms included new amendments to Rules of Procedure and Evidence to ensure that all indictments confirmed by the Tribunal meet the Security Council's directives and to authorize Trial Chambers to refer a case to any jurisdiction in which the accused could have a fair trial, without the imposition of death penalty.

It is also noteworthy that the Tribunal continued preparing the States in the region for the prosecution of war crimes cases. In this regard, the concerted efforts to facilitate trial readiness by way of supporting legal reform, witness protection, detention facilities, capacity-building, seminars and training for personnel of domestic courts throughout the territories of the former Yugoslavia are steps in the right direction.

Finally, the ICTR and ICTY need the sustained support of the international community. In particular, adequate financial resources should be made available to them to complete their work within the stipulated time. Nigeria reaffirms its continued support for the work of the Tribunals in concert with the collective resolve to fight impunity and abuse of international humanitarian law.

Mr. Mwandembwa (United Republic of Tanzania): Like others who have spoken before us, my delegation welcomes the report of the Secretary-General, as contained in document A/59/183, and the ninth annual report delivered before this Assembly by Judge Erik Møse, the President of the International Criminal Tribunal for Rwanda. We would also like to thank Judge Theodore Meron, President of the International Criminal Tribunal for the Former Yugoslavia for the eleventh annual report of the ICTY. My delegation wishes to commend the work done by the ICTR during the period under review. Since July 2003, the ICTR has commenced 5 new trials involving 11 accused. Our experience over the past years indicates that the ICTR has increased its pace to deal with new cases.

My delegation welcomes the most recent version of completion plan that was submitted to the Security Council on 30 April 2004. It is our hope that the Tribunal will get the much needed resources to facilitate the implementation of the completion strategy. We call upon Member States to pay their contributions to the ad hoc tribunals in order to facilitate their work.

Turning to the ICTR, my delegation wishes to commend the ICTR Prosecutor, Mr. Hassan Bubacar Jallow, for his efforts to increase the number of prosecutions and to conduct speedy trials. Since he has taken office, the Prosecutor has drawn up an action plan for the completion strategy. Under his leadership, the tracking team has been revamped and greater cooperation has been sought from countries holding some of the fugitives. We also commend the Prosecutor, not only for his frequent and constant presence in Rwanda, the location of the crime and of the Investigation Division Office, but also for greater cooperation with the Rwandan Government.

As host country to the ICTR, Tanzania has worked closely with the Tribunal. We have fully implemented the Host Country Agreement and facilitated other needs through the Joint Facilitation Committee of senior representatives of Tanzania and the ICTR.

Now that the Tribunal is working towards completion of its work in the year 2008, my delegation wishes to invite the United Nations and the international community to locate some international judiciary body to the Tribunal facility after completion of the Tribunal's work. Much has been invested to put in place the infrastructure there, therefore it is only reasonable to start thinking on how best to re-employ the facility for the benefit of international community.

Mr. Kamanzi (Rwanda): My delegation wishes to thank you for the opportunity provided by this meeting, at which we have heard statements from the Presidents of the International Criminal Tribunals for Rwanda and the former Yugoslavia. My delegation wishes to confine its remarks to the International Criminal Tribunal for Rwanda. We would like to thank and congratulate the President of the ICTR, Judge Erik Møse for his statement, and we welcome his confirmation that the completion strategy is on course. The Rwanda Government would like to assure Judge Møse and the General Assembly of our continued support for the Tribunal.

This November, we mark 10 years since the Security Council adopted the resolution establishing the ICTR. We recognize that this provides a good opportunity for us to take stock and make an assessment of the Tribunal's performance so far. We should also ask ourselves what needs to be done to ensure that the Tribunal continues to improve its efficiency and effectiveness so that it can complete its work within the agreed timeframe.

Since it began its work, the ICTR has completed trials of 9 individuals. The trials of a further 11 have been completed at the first instance and await appeal. The trials of 25 individuals are on-going, while a further 17 individuals are awaiting trial. Eight individuals whom the ICTR has targeted for prosecution, including one of the key masterminds and financiers of the genocide, Felicien Kabuga, remain at large. We call upon all Member States to cooperate with the Tribunal to ensure that all indictees face justice.

Although we recognize and commend the Tribunal for its work so far, we should point out that 10 years ago, when the ICTR was established, we had hoped that by now more progress would have been achieved. We note that, originally, the Office of the Prosecutor (OTP) had identified more than 300 "big fish" for prosecution before the Tribunal completed its work. Today, the completion target of the Tribunal is significantly more modest. If it apprehends and puts on trial the suspects still at large, and completes the trials of the suspects still awaiting trial and those whose trials are still in progress or awaiting appeal, the Tribunal will have completed the trials of 77 individuals when it concludes its work. Given that the trials of only 20 of these individuals have been completed at the first instance or appeal in the last 10 years, it is imperative that the Tribunal should work effectively and that it be given the requisite support by the General Assembly to complete its remaining workload in the next six years.

My Government recalls that the transfer of cases from the Tribunal to Rwandan jurisdiction was envisaged as central to the objective of bringing the perpetrators of the genocide to justice when the ICTR was established 10 years ago. Although the process of transferring cases has not yet begun, we hope that it very soon will. We stand ready to facilitate the process wherever possible.

My Government also recognizes that transferring at least 40 cases to Rwanda for trial may be the only realistic way for the Tribunal to complete its work within the time frame outlined in the completion strategy.

With respect to the concern expressed about the fact that the death penalty remains on Rwanda's statute books, we would like to take this opportunity to reiterate our assurances that the death penalty will not be exercised with respect to cases transferred from the ICTR.

We would also like to note that Rwanda will require support for training its investigators, lawyers and judges, as well as upgrading its court facilities and infrastructure, in order to handle the trials with the highest level of professionalism and efficiency. This assessment is supported in the ninth annual report of the Tribunal. My Government is in discussion with the Tribunal on the matter and we expect that it will be a feature of our discussions under this agenda item next year.

My Government appreciates the support of the international community, which enabled it to construct a detention facility in Rwanda that meets international standards. We expect that convicts will now serve sentences in Rwanda. That will contribute to the process of reconciliation, healing and eradicating the culture of impunity, as the people will now be able to make a direct link between crimes committed and punishments rendered.

The Rwandan Government welcomes the progress made in improving the overall efficiency and effectiveness of the Tribunal over the past 12 months. The people of Rwanda continue to expect the Tribunal to deliver justice to the authors and planners of the 1994 genocide. Justice is a central and indispensable component of the process of reconciliation and national renewal in Rwanda. We therefore consider it vital for the Tribunal to succeed in the tasks that we, as States Members of the United Nations, have set out for it.

My Government would like once again to renew its commitment to working in support of the three organs of the Tribunal, as we have done over the past 10 years.

We are concerned that late payment or non-payment of assessed contributions by Member States to the Tribunal has resulted in serious financial difficulties, leading to recruitment freezes and a slowdown in its work. This slowdown comes at a time when we expect the Tribunal to be working steadily towards implementing its completion strategy. It is imperative that Member States make their contributions on time, in full and without conditions if we are to realize the goals outlined in the completion strategy.

Finally, my delegation would like to bring to the attention of the General Assembly the plight of many of the survivors of the 1994 genocide, who live in conditions of enormous hardship. Most genocide survivors, particularly orphans, widows and victims of sexual violence, are poorer and more vulnerable today than they were 10 years ago. In particular, the Assembly should note the plight of thousands of women who contracted HIV as a result of being raped during the genocide. While the people who either raped them or gave the orders for them to be raped receive care and treatment at the detention facility in Arusha, the victims have received no such care, and as a result many have since died of AIDS. We urge the Assembly to recognize the seriousness of the condition of such people and to support a draft resolution to assist the survivors of the Rwanda genocide, which will be introduced in plenary meeting during this session by the representative of Nigeria on behalf of the States members of the African Union.

Ms. Katungye (Uganda): As we collectively reflect upon the ninth annual report of the International Criminal Tribunal for Rwanda (ICTR) and the eleventh report of the International Tribunal for the Former Yugoslavia (ICTY), eloquently introduced by the respective Presidents of the Tribunals, it is incumbent upon us to take stock of the steps the international community has taken to redress the grave mistakes that enabled such horrific tragedies to happen in the first place. In so doing, we must evaluate both the successes and the failures of the two International Tribunals as holistically and frankly as possible. [illegible] do any less would be to dishonour the memory of the victims of genocide and other grave crimes against humanity.

We would like to express our sincere condolences on the passing of Judge Richard May, whose invaluable contribution to the work of the Tribunal and other bodies lives on.

The role of international tribunals in the field of international criminal justice is a vital one. It behoves us to strengthen that role in the context — and in the interests — of international peace and justice, both of which are prerequisites for stable communities and for development. Moreover, the records obtained from the tribunals are an invaluable resource that should be used to forge healing and reconciliation among the peoples of Rwanda, the Balkans and affected neighbouring countries. They also contribute significantly to the rule of law and justice globally.

I shall refer first to the ninth report of the Rwanda Tribunal. Last year in the Security Council we heard about how the Tribunal for Rwanda was plagued by lack of sufficient funding, inadequate staff and trials that were unduly delayed, to the chagrin and consternation of the victims and their families, as well as of the international community.

Having noted the negative impact that insufficient funding and staffing has caused in the past, we believe that the fact that the Controller had to freeze recruitment of new staff in the period under review represents a setback.

Failure by Member States to pay their contributions to the Tribunal is not new and may be the result of a genuine inability to do so on the part of the affected States, especially those facing development challenges. The Tribunal must not be allowed to suffer as a result of that inadequacy. New and creative ways could, perhaps, be found to meet those needs. We cannot overemphasize the need to provide the Tribunal with sufficient resources to allow it complete its cases within the allotted time frame.

The report also refers, in paragraph 68, to eight defence counsel being withdrawn "for reasons constituting exceptional circumstances". Perhaps, in the spirit of transparency and to help us to draw important lessons therefrom, it might have been useful for the report to expound on that further. Nonetheless, having heard this morning from President Erik Møse, it is clear that this situation needs urgent redress.

On a happier note, it is heartening to see that in the same period — that is, from 1 July 2003 to 30 June 2004 — there has been significant progress in the handling of cases, from new trials to trials in progress and completed cases, as reflected in the report.

However, even as we laud this progress, we need to point out that the figure of 48 accused persons being held accountable may appear less significant in a situation where hundreds of thousands of innocent men, women and children were brazenly killed. On the other hand, we, as the international community, must commend the Security Council for its intervention to ensure that by 2008 the Tribunal will have completed all its trials. To this end, we urge all States, which are required to do so, to arrest and transfer all the indictees and suspects who are still at large. Further, we need to assist the Prosecutor, Mr. Hassan B. Jallow, in his efforts to transfer the individuals identified by him for trial in national jurisdictions. We also welcome his appointment of a Completion Strategy Monitoring Committee and recognize the positive impact engendered by the very cooperative spirit existing between his Office and the Rwandan Government.

Yet another significant success of the Tribunal has been the adoption of Security Council resolution 1512 (2003), which allowed the use of additional ad litem judges. The benefits are self-evident with the commencement of new trial proceedings, which in turn have resuscitated the hopes of the victims. This impetus must be expanded, and we are glad that the Tribunal is already in the process of doing so.

The Government and people of Rwanda have demonstrated through their legal system, the "Gacaca" courts, that they are capable of handling some of the genocidaires within their national jurisdiction. We, therefore, have no hesitation in recommending that those persons found to have been medium- to low-level participants in the 1994 genocide be subjected to Rwanda's national jurisdiction. In addition, we urge that the Rwandan Government be assisted, when necessary, to strengthen their judicial system.

We have noted the appeal by the Tribunal for resources to enable it engage the services of uncertified translators, with a view to meeting the challenges posed by the increased need for translation during trials. In our view, this is a fair request and should be answered in the affirmative. It is also a reasonable request, as uncertified translators will not only be cheaper but also faster to hire. This will lead to speedier trials, while adhering to the principles of natural justice. Lack of adequate translation not only detracts from the rights of the victims and defendants but also slows down the implementation of justice.

We believe the Tribunal is cognizant of the need for the Rwandan people to perceive that justice is indeed being meted out. We see this from the efforts of its External Relations and Strategic Planning Section to reach out, involve and regularly inform the Rwandan populace of the trials as they develop and are conducted.

Likewise, we would like to thank the International Criminal Tribunal for the Former Yugoslavia (ICTY) for the tremendous strides it has taken in overcoming the obstacles it has faced to achieve progress.

We need to address the appeals made by President Theodor Meron in his statement this morning. Furthermore, we need to support the important reforms initiated by the ICTY, in conformity with its commitment to the completion strategies and the objective of conforming to the requirements of Security Council resolutions 1503 (2003) and 1534 (2004).

Both the ICTR and the ICTY, together with the International Criminal Court and the Special Court for Sierra Leone, are evidence that the international community is determined to bring to justice the perpetrators of genocide, war crimes and grave crimes against humanity. Therefore, we think it all the more important to remember the old adage that an ounce of prevention is better than a pound of cure, and we have to put in place early warning systems that alert the world about events that lead to such crimes. We can no longer afford to sit on the fence in the wake of genocide or other such grave crimes.

Finally, it is apparent from the reviews that both Tribunals have made visible improvements in the period under review and continue to seek partnerships with interested countries and international organizations to improve even more. For this, they must be congratulated.

The lesson to be drawn from all this is that never again should the international community ignore the developments of genocide while it is being carried out against a people. It is costly, not only in terms of human suffering and societal trauma, but also in terms of the time, money and resources spent on trying to repair the damage. Moreover, only a fraction of the damage can indeed be redressed, irrespective of our best intentions and efforts.

Trials can be very lengthy, and if the victims sense that they are being hampered, they will feel doubly betrayed. The old adage that justice delayed is justice denied is very pertinent.

In conclusion, the recommendations made in both reports are quite modest and pertinent and should, therefore, be addressed. In so doing, the victims will receive some form of respite and healing, while the perpetrators are finally brought to account for their heinous crimes.

The Acting President: We have heard the last speaker in the debate for this meeting. May I take it, therefore, that it is the wish of the General Assembly to conclude its consideration of agenda items 50 and 51?

It was so decided.

The meeting rose at 12.40 p.m.

United Nations A/59/PV.54

General Assembly

Fifty-ninth session

Official Records

54th plenary meeting

Tuesday, 16 November 2004, 10 a.m.
New York

President: Mr. Ping .... (Gabon)

In the absence of the President, Mr. Chowdhury (Bangladesh), Vice-President, took the Chair.

The meeting was called to order at 10.05 a.m.

Agenda item 49

Oceans and the law of the sea

(a) Oceans and the law of the sea

Reports of the Secretary-General (A/59/62 and Add.1, A/59/63, A/59/126)

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its fifth meeting (A/59/122)

Draft resolution (A/59/L.22)

(b) Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Report of the Secretary-General (A/59/298)

Draft resolution (A/59/L.23)

The Acting President: Before proceeding further, I should like to inform members that this morning's meeting will be adjourned at 12.45 p.m. Immediately thereafter, there will be an informal segment to hear statements by the representatives of two non-governmental organizations, namely Greenpeace International and the Natural Resources Defense Council. Members are invited to remain for this segment.

I now give the floor to the representative of Brazil to introduce draft resolution A/59/L.22.

Mr. Dos Santos (Brazil): I have the honour to introduce draft resolution A/59/L.22, entitled "Oceans and the law of the sea", under item 49 (a) of the agenda. The other draft resolution, which is under item 49 (b) on sustainable fisheries, will be introduced by the representative of the United States.

Since the publication of the draft resolution, the following countries have become sponsors: Austria, Belgium, Brazil, Canada, Cyprus, Czech Republic, Denmark, Fiji, Finland, France, Greece, Honduras, Hungary, Iceland, Ireland, Japan, Malta, Marshall Islands, Mexico, the Federated States of Micronesia, Monaco, Namibia, the Netherlands, New Zealand, Norway, Portugal, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Trinidad and Tobago, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

The draft resolution is the result of a substantial series of open-ended consultations among delegations. At the outset, I would like to express my appreciation to all delegations for their active participation and constructive spirit. I wish to thank, in particular, Mr. Marcos de Almeida of Brazil and Ms. Jennifer McIver of New Zealand for acting as coordinator and vice-coordinator, respectively, of the informal consultations on this draft resolution, and Ms. Holly Koehler of the United States for the coordination of the fisheries draft resolution. I also express my gratitude to the Director, Mr. Vladimir Golitsyn, and the staff of the Division for Ocean Affairs and the Law of the Sea for their highly professional assistance, which, as usual, contributed decisively to the success of our work.

The draft resolutions and today's debate are expressions of the General Assembly's commitment to issues relating to oceans and the law of the sea, especially as we celebrate the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea (UNCLOS), which represents a monument to international cooperation in the history of the treaty-making process.

The importance of the Convention is firmly expressed in draft resolution A/59/L.22, which refers to the legal framework, the maintenance and strengthening of international peace and security and the sustainable development of uses of and activities related to the oceans and seas. In that regard, several paragraphs are repeated from previous resolutions because they reaffirm our continuing needs.

The draft also reflects the importance of capacity-building for developing States, so that they can implement the Convention, fulfil their obligations and benefit from ocean resources, as well as participate in all forums and processes dealing with issues related to the oceans and the law of the sea.

With the examination of information on the outer limits of the continental shelf beyond 200 nautical miles, submitted by Brazil on 17 May 2004, the work of the Commission on the Limits of the Continental Shelf has increased, and several States have advised of their intentions to make submissions in the near future. Those facts have given rise to some concern regarding the need to improve the capacity of the Commission to have concomitant meetings of several subcommissions. This has been expressed in the draft resolution by the request to the Secretary-General to submit proposals to the next session of the General Assembly on how to accommodate the requirements of the Commission.

As in previous years, the draft resolution also covers a wide array of issues directly relevant to the sustainable development of the oceans and seas. It requests the Secretary-General to report to the sixty-first session of the General Assembly on the role of the "genuine link" in relation to the duty of flag States to exercise effective control over ships flying their flag and the potential consequences of non-compliance with duties and obligations of flag States, as described in relevant international instruments.

The draft also covers questions of piracy and armed robbery at sea, marine pollution, the smuggling of migrants, marine science, regional cooperation and inter-agency coordination and cooperation. It welcomes the adoption or entry into force of new conventions and protocols relating to the law of the sea and highlights the work of the International Seabed Authority, the International Tribunal for the Law of the Sea, the International Maritime Organization, the Conference of Parties to the Convention on Biological Diversity, the United Nations Environment Programme, the International Labour Organization and the International Atomic Energy Agency.

The draft resolution decides to establish an ad hoc open-ended informal working group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction and decides to convene a second international workshop on the regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects.

On the United Nations Open-ended Informal Consultative Process, the draft resolution recalls the decision to review the effectiveness and utility of the Consultative Process at the Assembly's sixtieth session and recommends that the Consultative Process organize discussions around fisheries and its contribution to sustainable development, marine debris and other issues discussed at previous meetings.

Sir, allow me now to make a few remarks on behalf of my country. Brazil has always been an active and enthusiastic supporter of the Convention and of efforts to put its provisions into practice. The Convention is also known as the constitution of the

oceans, and it is becoming part of the consuetudinary law, without yet having achieved universal status.

Nonetheless, the implementation of the Convention faces obstacles, in particular for the developing States because of their need for capacity-building in a wide range of interrelated matters and the need to improve marine science. In that respect, the establishment of the Ad Hoc Open-ended Informal Working Group will play a fundamental role in bringing us the actual knowledge regarding the multiple uses of deep sea biodiversity, the richness of which is restricted to those who have advanced technology to explore its usefulness, for example in the areas of health and food improvement.

Brazil considers that the Second International Workshop on the Global Marine Assessment will be decisive in establishing the process recommended by the Johannesburg Plan of Implementation. We expect that its work will be fruitful, and States must bear in mind the need to integrate and coordinate efforts on the conservation of the oceans.

Brazil also recognizes the usefulness of the informal Consultative Process in helping the General Assembly to understand broad, complex and multifaceted issues. Taking into account the review of its effectiveness at the next session, Brazil considers that the informal Consultative Process must be more educative and illustrative, rather than act as a forum for discussing issues and making recommendations to the Assembly.

Finally, the choice of the areas of focus for next year's informal Consultative Process is timely in view of the 2005 review of the Millennium Development Goals, particularly the topic of "Fisheries and its contribution to sustainable development". The topics chosen reflect once more the need to link cross-cutting issues such as capacity-building, regional cooperation and integrated ocean management through existing programmes and institutions. How best to enhance those linkages in a manner consistent with the objectives of the Convention is the fundamental reason for setting up the informal Consultative Process.

Now that we have highlighted the achievements and current challenges concerning ocean issues, let us take this occasion, on the tenth anniversary of the entry into force of the Convention, to reaffirm the commitment of our countries and of the international community as a whole to the task and vision we set out for ourselves in 1982 when the Convention was concluded.

Mr. Hamburger (Netherlands): I have the honour to speak on behalf of the European Union and the European Community as a party to the Convention on the Law of the Sea. The candidate countries Bulgaria, Romania and Croatia, the countries of the Stabilization and Association Process and potential candidates Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia and Montenegro align themselves with this statement.

Today we celebrate the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea (UNCLOS). For the European Union (EU), the ratification today by another EU member State, Denmark, adds a special touch to the celebration.

The Convention and its implementing Agreement are a milestone in the world's efforts to manage the world's oceans. Looking back at the achievements of the Third United Nations Conference on the Law of the Sea, we must agree not only that a wide variety of issues was dealt with in the Convention, but also that the text of the Convention has proved to be flexible enough to deal with problems that have arisen since its conclusion. It is worth mentioning that in many respects the provisions of the Convention have acquired the status of international customary law.

Nineteen ninety four saw the conclusion of the Agreement, which greatly facilitated the entry into force of the Convention for many States. The two integrated instruments have proved to be a remarkably useful tool for the governance of oceans. Indeed, we believe that those instruments will serve us all well in the future and that there is no need to reconsider any of their provisions at this stage.

Even though many States have already expressed consent to be bound, we believe that we must continue to strive for universality. We call on all those States that have not yet done so to become parties to the Convention and the implementing Agreement as soon as possible.

We regret that many seafarers still face dangers related not only to the safety of ships or the situation at sea itself, but also to the prevalent dangers of piracy and armed robbery at sea. The European Union notes with great concern that criminal activities still threaten

shipping and imply danger for the seafarers, as well as financial losses for the operators of commercial shipping vessels. It is imperative that all States do their utmost to prevent piracy and armed robbery at sea. In particular, there is a responsibility of States to prevent such acts from occurring in maritime areas under their jurisdiction or from ships flying their flag. We commend the efforts being made in this respect by the International Maritime Organization (IMO), as well as those by a number of regional cooperative programmes.

All States, especially coastal States to straits used for international navigation, should respect the right of innocent passage through such straits for every vessel. Furthermore, port States should do their utmost not to hinder access to ports, thus respecting the freedom of maritime trade and the freedom of transit between ports, irrespective of flag.

On the issue of security and safety at sea, we would like to highlight the importance of addressing the issue of the transport by sea of weapons of mass destruction. We recall the importance of Security Council resolution 1540 (2004) on the prevention of the proliferation of weapons of mass destruction and we reiterate the support expressed by the European Union for the Proliferation Security Initiative. This important Initiative includes a willingness to cooperate on preventing the transport of weapons of mass destruction by sea.

Similarly, the revision of the IMO Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol on fixed platforms located on the continental shelf should be noted. In these ongoing negotiations, important provisions are to be added to the existing instrument, enhancing efforts against terrorism, as well as providing for the penalization of the transport of weapons of mass destruction, dual-use goods and delivery systems, by providing clear and mutually agreed rules on boarding ships on the high seas. The European Union considers that an important aspect of those amendments is that they will provide a clear and agreed legal framework for intervening with shipping when well-founded suspicions of the shipment of weapons of mass destruction arise.

By 2025, more than 75 per cent of the total world population is expected to be living on the coast, highly dependent on the sea and its resources. We have an obligation to ensure the viability of the ocean's environment, which is deteriorating at an alarming rate due to the over-utilization of marine resources, pollution and climate change. This will be a particular challenge for the twenty-first century. Proper ocean governance requires action that is forward-looking and based on the precautionary principle, rather than merely reactive to the problems of the day. As technology and science progress, we face new challenges regarding how best to protect the oceans against destructive practices.

The European Union attaches great importance to ensuring the protection of the marine biodiversity of the oceans, in areas under the responsibility of coastal States, as well as in those beyond the limits of national jurisdiction. In our region, this important work is already being undertaken within regional sea conventions and programmes, such as the Helsinki Commission (HELCOM) for the Baltic Sea, the Barcelona Convention for the Mediterranean sea, the OSPAR Convention for the North-East Atlantic, and the Black Sea Convention. With respect to the maritime areas under the responsibility of the States members of the European Union, the European Commission is developing a strategy for the protection of the marine environment. This strategy will be finalized in 2005. We would also like to highlight the fact that pollution accidents at sea, which have caused serious damage within the European Union, have accelerated the need for measures to protect sensitive coastal areas within the European Union.

While the Convention on the Law of the Sea sets out a global regulatory framework for areas under national jurisdiction and the high seas, the situation is less clear with respect to the protection of the biodiversity of the high seas and the Area. The European Union recognizes the need to regulate practices, including bottom trawling, which may be a threat to deep-sea marine biodiversity and to vulnerable marine ecosystems. The legal framework and the implementation of measures to protect biodiversity beyond the limits of national jurisdiction need to be improved and addressed urgently by the international community. At this time, not enough is known about the marine environment in these areas, in particular the ecosystems of the deep sea. This strengthens the need to apply the precautionary principle in all activities carried out in deep-sea areas. Thus we should strengthen our resolve to act only with the greatest care in such areas by giving full effect to the provisions of the Convention on the Law of the Sea and other international conventions, such as the Convention on Biological Diversity.

The European Union believes that there is a need to begin a process aimed at addressing this matter. Such a process should take into account the relevant provisions of the Convention on Biological Diversity and the decisions of the Seventh Meeting of the Conference of the Parties to that Convention. That must be done in a manner that gives effect to the Convention of the Law of the Sea and other relevant instruments, building on the conclusions of the joint Plan of the Johannesburg conference, as well as on other related instruments. We note the decision in the draft resolution before us on oceans and the law of the sea to establish an ad hoc open-ended working group to study issues relating to conservation and the sustainable use of marine biological diversity beyond the areas of national jurisdiction, and we look forward to participating in its work. The European Union also welcomes the steps that the General Assembly has proposed in this year's annual fisheries and oceans discussions, which called on States and regional fisheries management bodies to protect vulnerable marine ecosystems from destructive practices — protection to which concerted international action on illegal, unregulated and unreported fishing will also contribute.

Many discussions on the governance of oceans have taken place in the Open-ended Informal Consultative Process on Oceans and the Law of the Sea. This year we participated in the fifth meeting, and during the next meeting in 2005 a decision will have to be prepared for as to whether the General Assembly would like to continue this process for a further three years. The European Union could support, in principle, the continuation of the United Nations Open-ended Informal Consultative Process. However, while we have learned a lot about a great many issues related to the governance of oceans, we recognize that there is room for improvement and that a detailed and independent evaluation of the quality and practical results of the process should take place before a decision is taken on the modalities of its possible continuation.

It is important to establish whether this process has, in fact, led to a better understanding of the management of the oceans and to a better and more coherent approach of ocean issues by States and relevant international organizations.

I would like to conclude by reiterating our appreciation for the annual report on oceans and the law of the sea produced by the Secretariat. It provides a wealth of information and presents an almost exhaustive compilation of relevant developments. I would also like to reiterate that the European Union considers the General Assembly to be the place to discuss the report, as this is the most inclusive forum for discussion of such matters.

The Acting President: The Assembly will now hear a statement by The Honourable Kjell Magne Bondevik, Prime Minister of Norway.

The Honourable Kjell Magne Bondevik, Prime Minister of Norway, was escorted to the rostrum.

The Acting President: I have great pleasure in welcoming His Excellency Mr. Kjell Magne Bondevik, Prime Minister of Norway. I invite him to address the General Assembly.

Mr. Bondevik (Norway): The United Nations Convention on the Law of the Sea has rightly been labelled the constitution of the oceans. As we celebrate today the tenth anniversary of its coming into force, we reaffirm its fundamental importance as the undisputed overarching legal framework for all peaceful uses of the seas and oceans. Our challenge lies in ensuring full implementation of the Convention, through loyal implementation of our obligations and effective utilization of the possibilities its provisions prescribe.

I will focus on three main topics: first, the contribution of the Convention on the Law of the Sea to the international legal order and international peace and security; secondly, environmental challenges; and thirdly, measures to secure the sustainable management of our living marine resources.

The Convention promotes international peace and security by establishing clarity and predictability with respect to all activities in the oceans. The instrument defines the limits of territorial waters, national zones and the continental shelf. It also guarantees the freedom of navigation beyond the territorial sea and the right of passage through the territorial sea, international straits and archipelagic waters. The Convention carefully balances a number of interests and thus fosters friendly relations and cooperation among all nations. That balance constitutes the basis for the rule of law on the oceans and is a key contribution to the international legal order.

While the rules and principles of the Convention provide a stable legal framework, our security challenges change. Piracy and armed robbery at sea are increasing. Proliferation of weapons of mass destruction and, in particular, the danger of such weapons coming into the hands of terrorists, are a major threat to international peace and security, and such proliferation by sea is unfortunately a real risk.

Under Security Council resolution 1540 (2004), all nations are obliged to prevent proliferation of weapons of mass destruction. Nations must cooperate to that end, thus we welcome the efforts made within the International Maritime Organization (IMO). Of particular importance are the recent amendments to the International Convention for the Safety of Life at Sea and the ongoing process to substantially strengthen the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Furthermore, Norway is an active participant in the Proliferation Security Initiative aimed at strengthening our national and collective ability to prevent and stop the proliferation of weapons of mass destruction.

As a major shipping nation, we are deeply concerned about the increase in piracy and armed robbery at sea in certain parts of the world. In addition to support for multilateral efforts against that increasing challenge, we are actively engaged in bilateral cooperation with other nations. And in all our efforts to counter piracy, terrorism, and proliferation of such weapons at sea, the Convention on the Law of the Sea serves as the basic legal framework for developing new initiatives.

Shipping carries more than 90 per cent of world trade. It is the most energy-efficient and ecologically sound mode of freight transportation. Preserving workable conditions for commercial shipping must, therefore, be a priority to us all. Shipping interests must, however, always be weighed against environmental considerations and the legitimate interests of the coastal populations of the world.

We have seen several environmental catastrophes caused by shipping accidents over the last years. This clearly illustrates the need for measures to further protect the environment. In that regard, we welcome the new IMO measures to prevent oil pollution from vessels, including the decision to speed up the phasing out of single hull tankers. Shipping security is inextricably linked to the obligation of flag States to fully shoulder their responsibilities, which cannot be effectively discharged without a genuine link between the flag State and the ships flying its flag.

I urge all flag States to comply with their obligations under international law to make sure that their ships meet international security standards. States without an effective maritime administration and an appropriate domestic legal framework must refrain from operating shipping registries.

States have a general responsibility to protect and preserve the marine environment and living resources in all ocean areas. How best to carry out that responsibility has increasingly been debated. The IMO has discussed the establishment of Particularly Sensitive Sea Areas, while marine protected areas have been debated within the framework of the Convention on Biological Diversity. Some have argued that we need a revision of the Convention on the Law of the Sea itself to clarify and strengthen our environmental responsibilities.

I believe that we are best served by adopting a focused, practical and targeted approach in order to address the problems at hand within the existing legal framework. When a problem is identified, specific measures to deal with it effectively should be adopted by the relevant international body or the national authority concerned. In line with that approach, Norway is actively working to prevent the destructive practice of bottom trawling in vulnerable areas. Within our 200-mile zone, protected areas have been established. These include areas within our economic zone where bottom trawling is prohibited.

I welcome last week's decision by the North-East Atlantic Fisheries Commission to ban all trawling in four areas, within its regulatory area, in accordance with Norwegian proposals. In other vulnerable high seas areas the relevant regional fisheries management arrangements should also engage actively in order to prevent harmful bottom trawling. Where such competent bodies do not exist, I would urge coastal States to work together in order to establish them as soon as possible.

Based on the close cooperation of the States with the best local knowledge, such regional arrangements are the best tools for ensuring the sustainable management of marine living resources and preventing destructive practices. These arrangements also have a key role to play in preserving marine biodiversity in general.

The Food and Agriculture Organization of the United Nations (FAO) reports that the global situation of marine fish stocks continues to deteriorate. That broad statement does not apply to all stocks in all waters and zones, but overall it gives reason for increasing concern. We must prevent any further depletion of living marine resources through sustainable resource management and the fight against illegal, unreported and unregulated fishing.

The Convention recognizes the responsibility of coastal States for the sustainable management of living resources in their maritime zones. Through the 1995 Fish Stocks Agreement, States are obliged to cooperate in the management of straddling and highly migratory fish stocks. In discharging those responsibilities, the coastal States and regional arrangements are afforded broad discretion in choosing the most appropriate management measures. A lack of complete scientific data can never serve as an excuse for failing to implement responsible management measures.

Our resource management efforts must be comprehensive and ecosystem-based in order to match the complexity of nature. In line with this thinking, my Government is now working on a comprehensive management plan for the Norwegian part of the Barents Sea. That plan, which will guide our activities and the measures we take for the next 15 years, will encompass aspects relevant not only to resource management, but to the marine environment as a whole.

However responsible and precautionary the coastal States and the regional management arrangements might be in their management, their full purpose will not be served as long as we are struggling with illegal, unreported and unregulated fishing. Significantly, the Secretary-General states in his report on sustainable fisheries that illegal, unreported and unregulated fishing in all its forms presents a major obstacle to achieving sustainable fisheries both in areas under national jurisdiction and on the high seas.

Curbing such fishing is therefore among the most important measures we can take to protect marine resources. Obviously, a huge responsibility here rests with the flag State. Unfortunately, some States allow vessels to fly their flag without ensuring that their fishing practices are legal and sound.

International instruments such as the 1995 Fish Stocks Agreement and the 1993 FAO Compliance Agreement are essential. Regrettably, the number of ratifications is still much too low. In other words, there seems to be a lack of political will to deal effectively with this problem. I appeal to all States to make sure that vessels flying their flag do not engage in illegal, unreported and unregulated fishing.

In my statement, I have repeatedly referred to common obligations and shared responsibilities. We share the responsibility to fully implement the Convention and achieve its full potential. There are, however, differences between the States parties' abilities to implement the various provisions and to take advantage of the possibilities provided by the Convention. Norway therefore notes with satisfaction the widespread consensus that capacity-building is a main challenge in relation to the law of the sea. As part of our development aid programmes, we will continue to make funds and expertise available to those States that need such support.

In closing, let me state that it has been a pleasure to address law of the sea issues on the day of the tenth anniversary of the coming into force of the Convention. It has been a particular pleasure to do this before the General Assembly — the universal forum for taking stock of broader developments of law of the sea and ocean affairs and setting out our collective priorities.

The Acting President: On behalf of the General Assembly, I wish to thank the Prime Minister of Norway for the statement he has just made.

The Honourable Kjell Magne Bondevik was escorted from the rostrum.

Mr. Hackett (Barbados): I have the honour to make this statement on behalf of the Caribbean Community (CARICOM) States Members of the United Nations.

Today, the international community is rightly giving due recognition to the tenth anniversary of the entry into force of the 1982 United Nations Convention on the Law of the Sea. CARICOM delegations are proud to note that, of the 145 parties to the Convention, all CARICOM Governments are parties to this multilateral treaty, negotiated painstakingly over many years and which lays down widely accepted fundamental rules of international law governing all uses of ocean space.

Several States have, however, not yet become parties to the Convention. We would, accordingly, urge them to give this matter further positive consideration, with a view to achieving universal adherence to the Convention in the shortest possible time, as a tribute to the many negotiators from all regions who played such pivotal roles in shaping several of its key substantive provisions.

CARICOM delegations wish to thank the Secretary-General for his very comprehensive report under this agenda item. We wish also to commend the Director of the Division for Ocean Affairs and the Law of the Sea, Mr. Golitsyn, and his dedicated staff for the very proficient manner in which they continue to discharge their responsibilities, especially in light of the ever-increasing areas that are the focus of delegations' attention. We are encouraged by the fact that, in the 10 years since its entry into force, the Convention has, to a large extent, shaped national policies, practices and legislation on ocean affairs, particularly with reference to its maritime jurisdictional aspects. In addition, State practice with respect to maritime zones has shown strong adherence to the principles and rules established by its provisions.

In his report, the Secretary-General notes, inter alia, that, while more than 40 treaties and protocols to treaties on the delimitation of maritime boundaries have been concluded since November 1994, a number of unresolved issues related to sovereignty over land or island territory, overlapping and extensive maritime claims and the particular geographical predicaments of certain countries continue to encumber relations between States with opposite and adjacent coasts. We encourage States to settle their disputes in that regard by peaceful means, including those set out in the Convention and in accordance with international law.

In the Caribbean region, two separate arbitration proceedings are currently under way with a view to settling amicably and definitively, by referral to arbitral tribunals constituted under the Convention, the respective maritime boundaries of the States concerned. In addition, other States of the region are engaged in bilateral negotiations with a view to concluding delimitation agreements.

CARICOM delegations continue to be appreciative of the initiative of the Government of Mexico regarding the Conference on Maritime Delimitation in the Caribbean, and they express their thanks to that Government for its generous financial contributions of almost $100,000 over the past few years to the trust fund for assistance to States participating in the Conference. Accordingly, we look forward to the convening of future meetings of the Conference and to assistance from the trust fund, upon the request of participating States, in order to contract the necessary consultancy services.

The Secretary-General draws attention to a number of failings on the part of States parties during these last 10 years: the proclamation of de facto exclusive economic zones under various other designations, thus creating confusion and uncertainty especially as to the rights and obligations of other States; the lack of harmonization of national legislation with the provisions of the United Nations Convention on the Law of the Sea; non-observance of the time-honoured tradition of regular reporting to the United Nations by coastal States of new legislation on maritime zones; and failure to deposit with the Secretary-General, under the Convention, charts showing straight baselines and archipelagic baselines, as well as the limits of the territorial sea, exclusive economic zones and the continental shelf.

CARICOM delegations therefore wish to urge States parties to the Convention to ensure that measures taken in the areas identified by the Secretary-General are in conformity with the Convention and that the international community is made aware of any such international legal developments by transmitting such information to the Secretary-General for dissemination in accordance with his obligations as depositary.

We wish to reiterate our unconditional support for the institutions established by the Convention, namely, the International Tribunal for the Law of the Sea, the International Seabed Authority and the Commission on the Limits of the Continental Shelf. We commend them on the highly effective manner in which they have been carrying out the various responsibilities assigned to them under the Convention since their establishment. For example, the International Seabed Authority has entered into exploration contracts with all seven pioneer investors in accordance with the regulations on prospecting and exploration for polymetallic nodules in the area. It has made progress on developing rules, regulations and procedures for the exploration of polymetallic sulphides and cobalt-rich ferromanganese crusts, and it has begun evaluation of available data and information related to the areas reserved for its future use.

CARICOM delegations also wish to take this opportunity to congratulate Mr. Satya Nandan on his re-election to the post of Secretary-General of the International Seabed Authority for a further four-year term in the recent elections, which were held under the Trinidad and Tobago presidency of the Authority's Assembly. We pledge to him our continued full support in the discharge of his duties.

The International Tribunal for the Law of the Sea, which has among its 21 judges two jurists from CARICOM countries — Judge Dolliver Nelson of Grenada, its current President, and Judge Anthony Lucky of Trinidad and Tobago — has dealt over the last eight years with a number of cases involving the prompt release of vessels and requests for provisional measures. We welcome the Tribunal's contribution to the development of the jurisprudence of the law of the sea in its few short years of its existence.

The Commission on the Limits of the Continental Shelf, in addition to devising and consolidating its procedures for the submission of claims, has addressed the first request, submitted by the Russian Federation, and has now received its second submission, from Brazil. CARICOM delegations welcome the willingness of the Commission to assist States, at their request, in the preparation of their submissions and other actions by the Division for Ocean Affairs and the Law of the Sea aimed at building capacity among coastal States. This will enable them to make, in a timely manner, their own submissions in relation to the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Ten years after the 1982 United Nations Convention on the Law of the Sea entered into force, further actions are still required of States to give full force and effect to the Convention's provisions in their national legislation. Perhaps it would be timely for Governments to give consideration to establishing overarching national marine policies encompassing all aspects of ocean affairs, in addition to developing national mechanisms that can ensure the broadest possible coordination on all ocean-related matters at the national level and in order to be in a better position to cooperate with other States.

CARICOM delegations further note that an important development took place at the Fourteenth Meeting of States Parties to the Convention, held in New York in June this year. Aside from addressing financial and administrative issues related to the International Tribunal for the Law of the Sea, it was agreed that the agenda for the Fifteenth Meeting of States Parties should include a new item relating to the report of the Secretary-General under the Convention's article 319. While there are other forums in which matters concerning oceans and the law of the sea are considered, we believe that the meetings of States parties represent the logical forum for discussion of issues pertaining to implementation of the Convention. The inclusion of that agenda item, we believe, will broaden the work of the meetings of States parties beyond their current focus on administrative and budgetary matters. We look forward to the resumption of the report by the Secretary-General, in accordance with his obligation under article 319.

We also wish to commend the Co-Chairpersons of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea for their successful conduct of the fifth meeting, held earlier this year. Regarding the issue of new sustainable uses of the oceans, including the conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction, which was discussed at the last meeting, we are of the view that the benefits to be derived from areas to which the principle of the common heritage of mankind applies must be accessible to all mankind and not just limited to the commercial interests that seek to exploit its rich biodiversity for profit.

CARICOM delegations wish to highlight the need for States and competent regional and international organizations to take all necessary measures to address the risks to the biodiversity of vulnerable marine ecosystems, including in areas beyond national jurisdiction posed by, inter alia, destructive fishing practices such as high seas bottom trawling. We look forward to the discussion at the sixth meeting of the Consultative Process of the topics identified in the draft resolution, namely, "fisheries and its contribution to sustainable development" and "marine debris", as well as the review of issues discussed at previous meetings.

We support the proposal contained in draft resolution A/59/L.22 for the establishment of an open-ended informal working group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, and we look forward to the topical report of the Secretary-General on the important issues that the working group will consider. With respect to institutional arrangements, CARICOM delegations welcome the establishment of the Oceans and Coastal Areas Network, a new inter-agency mechanism for coordination and cooperation on issues relating to oceans and coastal issues within the United Nations system.

CARICOM delegations would wish again to highlight the importance that they attach to the security and environmental implications arising from the maritime transportation of radioactive materials and the corresponding lack of adequate liability and compensation regimes. Due note has, however, been taken of recent developments in this sphere within the framework of the International Atomic Energy Agency, and CARICOM delegations look forward to the outcome of the work of the Expert Group on International Nuclear Liability.

We would also like to draw attention to the draft resolution currently before the Assembly on promoting an integrated management approach to the Caribbean Sea, pointing to its unique biodiversity and highly fragile ecosystem, as well as our concern regarding the intensive use of its waters for maritime transport. We therefore seek the cooperation of the international community in assisting Caribbean States in taking appropriate steps for the preservation and protection of this most precious natural resource, which is vital to the well-being of the countries of the region.

CARICOM delegations wish to express our appreciation for the cooperation and assistance in the region from international organizations, our bilateral partners and the specialized agencies of the United Nations, such as the United Nations Environment Programme, the United Nations Development Programme and the International Maritime Organization. We look forward to continued cooperation with them in order to achieve our common goals in this area.

The seas and oceans — man's last frontier — and the important role they play in mankind's future must never be underestimated. The proper management on a sustainable basis of the world's seas and oceans and their resources, both living and non-living, is therefore vital to the economic and social well-being of present and future generations. Consequently, all of the issues related thereto must be addressed, we believe, in a holistic and harmonious manner by all States.

The Acting President: I am greatly pleased to welcome Mr. Geoff Regan, Minister of Fisheries and Oceans of Canada, whom I now invite to make a statement.

Mr. Regan (Canada) (*spoke in French*): Mr. President, I very pleased to join you on this important day, the tenth anniversary of the entry into force of the law of the sea, for the adoption of the draft resolution on oceans and the law of the sea (A/59/L.22) and the draft resolution on sustainable fisheries (A/59/L.23).

(spoke in English)

When Canadian Prime Minister Paul Martin addressed this body in September, he laid out his views on the challenges facing the United Nations and the reforms he saw as necessary to put our common humanity at the centre of the United Nations agenda. He suggested that it was our collective obligation to leave a better world for our children and that, in that regard, only international cooperation and technical assistance can bring lasting solutions. Furthermore, he underscored the global need for an oceans policy that allows us to rebuild our fish stocks. To that end, he said, access to fisheries must be better regulated under international law. In the context of those remarks, I think that we can all agree that today is a good day for the United Nations and a good day for the oceans of the world.

We are pleased that the provisions of the sustainable fisheries draft resolution recognize the need to combat destructive fishing practices in international waters where sensitive ecosystems exist. Indeed, practices must be addressed, at the global and regional levels, through effective international fisheries governance.

This draft resolution generally reflects Canadian practices in our domestic waters. In areas where highly sensitive marine ecosystems are known to exist and where there is scientific evidence that fishing practices are having a long-term adverse effect on the ecosystem, targeted action is taken to mitigate effects through the application of various management measures. This could include gear modifications, seasonal and area closures, or the establishment of marine protected areas where long-term measures are required.

Canada's position is that no specific gear type is inherently destructive, depending on how it is used. From experience, we know that all gear types can have negative impacts, which is why we need to work together on solutions. Consultations on management practices have been and will remain an integral part of Canadian decision-making. If we are to be effective, stakeholders need to be part of the solution.

We also welcome the decision set out in the draft resolution on oceans and the law of the sea (A/59/L.22) to establish an ad hoc working group to consider the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. We believe this working group will be able to address issues such as destructive fishing practices.

I am here today to share with you Canada's views concerning our collective responsibility to take on the problem of irresponsible fishing actions on the high seas so we can stop the pillage of our global resource. The oceans of the world have always fed and nurtured us. Our history of returning the favour has not been so generous. It was not until the latter part of the twentieth century that we began to do serious damage. The world has learned at its peril that just because technology allows us to fish faster and more efficiently, it does not mean that we have the wisdom to use that technology properly. The collective mismanagement of our oceans has had inevitable consequences.

Despite the best will in the world and three decades of international efforts, fish numbers remain dismally depressed. By Food and Agriculture Organization of the United Nations (FAO) estimates, more than 70 per cent of the world's fisheries are depleted or nearly depleted. This is particularly worrisome when we consider that, according to the World Resources Institute, approximately one billion people, mostly in developing countries, rely on fish as their primary animal protein source.

Whether we are talking about cod in the North Atlantic, big-eye tuna in the Pacific, orange roughy on the Indian Ocean, or Patagonian toothfish in the Antarctic, for all intents and purposes, far too many species are overexploited.

Illegal, unreported and unregulated fishing, for example, is estimated to represent about 30 per cent of the world's total catch. We cannot lose sight of the role that fisheries subsidies have played in the ongoing decline of many commercial species. Clearly, Government programmes that encourage excess fishing capacity and overfishing must be eliminated. While member countries of the World Trade Organization are now working towards this goal, it is essential to eliminate the economic incentives that encourage overfishing.

Canada is a maritime nation bounded by three oceans, with the world's longest coastline. It will come as no surprise to you, then, when I say that our fishery has always been a critical part of Canadian life and tradition, culturally, socially and economically. Many of our communities were founded on the wealth of this resource.

For centuries, the cod fishery was central to the economy and culture of thousands of communities and the livelihoods of tens of thousands of Newfoundlanders and Labradorians. The collapse of the cod stocks in the nineties represented one of the most tragic points in the history of that province, and for all of Canada. Today, too many Canadians are seeing their livelihoods being put at greater risk. They have an understandable impatience with a perceived lack of international action, which has led to much frustration regarding their fishery. The imperative for real action and results on ocean conservation issues in Canada — particularly the ecosystems of our continental shelf beyond 200 miles — has never been greater.

The sad truth is that something is obviously not working, and we all share in the responsibility to do something about it, within our respective jurisdictions and together, on regional and global fronts.

On the domestic front, we are taking action — based on scientific evidence and the hard lessons that we have learned.

We have started transforming our fisheries governance regimes. But fisheries are only a part of the broader picture of oceans ecosystems. Our links to the oceans are broad and the impact of our actions there is diverse. To help understand and correct our shortcomings, Canada established an Oceans Action Plan. Its goal is to revitalize our activities and initiatives by basing decision-making processes on sound science, by focusing first and foremost on the health of marine ecosystems, and by using new oceans technologies wisely to halt our destructive practices.

But the fact is, no matter what efforts we make in our own jurisdictions, they will be fruitless unless matched with cooperative actions at regional and global levels and with the necessary political will. For ecosystems know no administrative bounds. As responsible managers we need to set aside our jurisdictional constraints and manage oceans and the resources they harbour as a common property, one for which we are collectively responsible.

The Government of Canada recently made considerable investments to implement a new strategy to address overfishing. Our immediate and more pressing focus was the Grand Banks of Newfoundland and Labrador, where, because of overfishing, species currently under moratoria faced commercial extinction within five years. We committed over $45 million to expand our monitoring, control and surveillance of the area currently managed by the Northwest Atlantic Fisheries Organization (NAFO) and to find cooperative ways of addressing non-compliance and overfishing by working more closely with our NAFO partners. These efforts have yielded positive results to date. We are seeing some improvements, although important challenges remain. Our bilateral interventions, especially those by Prime Minister Martin, have highlighted how international the issue of overfishing is, and how significant support is for finding a global solution to the problem.

During the past 15 years, the international community has developed a series of tools and instruments to tackle this problem. Canada played a key role in the development of some of them, like the United Nations Straddling Fish Stocks and Highly Migratory Fish Stocks Agreement and the Convention on Law of the Sea.

But while the world's negotiators and diplomats have been prolific in their endeavours, we decision makers have been weak in our actions. It is now time to act, before it is too late.

I have agreed to be part of the Ministerial High Seas Task Force with colleagues from Australia, Chile, Namibia and New Zealand, with the Minister of Environment for the United Kingdom as Chair. This Task Force will consider specific ways to expose illegal, unreported and unregulated (IUU) fishing activity and combat this activity on a global level.

On a complementary track, Canada is initiating an international process to address global overfishing. Heads of State and leaders have given their support for moving in this direction.

Canada will launch this effort with an international conference on the governance of high seas fisheries from 1 to 5 May 2005 in St. John's, Newfoundland and Labrador. The conference will discuss existing international fisheries governance and areas where there may be gaps and impediments for implementation. Its key focus will be on the United Nations Fish Stocks Agreement. I am pleased to invite the fishing nations of the world to attend the St. John's conference. For we need to move from words to action, together.

Our vision is that the St. John's conference will launch a process that results in global standards for an effective monitoring regime, including consistent sanctions for non-compliance. Obviously, the purpose in all of this is to revive and then operate sustainable and ecologically friendly fisheries the world over. That is a very tall order. Somehow we must develop a formula to benchmark standards that would lead us to consistent successes. Otherwise, all our agreements are mere words on paper.

Perhaps we can start by asking ourselves some questions. Are we consistently adhering to our international obligations and commitments? Can we fill in the gaps with existing mechanisms or are new ones needed? Do we have the scientific knowledge to inform decision-making about the management of ocean resources and their ecosystems? Do we have sound information-sharing systems in place between States and regional organizations?

The answers to such questions can help us establish some of the benchmarking standards that we seek.

In the end, real progress means making difficult choices. And this requires political courage. I acknowledge the complex nature of the enterprise. Competing interests are made particularly sharp by the unequal levels of prosperity among nations, by technology outstripping capacity, by environmental concerns, and by international politics. The list may seem endless. But it must not deter us.

Canada would not be so arrogant as to point fingers. All of us, in our frustration or sense of outrage, often want to point the finger of blame at someone else. It is much better that we hold up a mirror.

We have in our hands the means, and I believe the will, to do the right thing, for our children and our children's children. It is clear that with today's resolutions, and with the ongoing work of international bodies, we have begun to assemble the pieces of the puzzle. Our challenge now is to solve this puzzle, so that our oceans are once again full of life.

If we fail, we will all be diminished, and not just in the loss of vital food sources. We will also be diminished ethically, morally, and spiritually, in ways we cannot yet calculate. None of us wants to be marked down in the history books as the generation that knew enough to act, that knew what had to be done, yet failed nonetheless.

I remain optimistic. I think we have the means to be uplifted, so that in the years to come, our descendants will say that humankind did learn from past mistakes, and did bring us back from the brink of disaster, and that our oceans are, indeed, coming back to life.

Mr. Amayo (Kenya): Today, 10 years ago, the United Nations Convention on the Law of the Sea (UNCLOS) entered into force. This anniversary presents an opportune time to reflect upon the achievements of the Convention over the past decade, as well as to explore its future direction and prospects.

At the outset, I wish to express my delegation's appreciation to the Office of Legal Affairs and its Division for Ocean Affairs and the Law of the Sea for the comprehensive reports issued for this session. These reports review developments over the past decade and identify the main achievements and challenges in the implementation of the Convention. My delegation hopes that our efforts in the next decade focus on addressing the myriad challenges that stand in the way of implementation.

The Convention has been called the constitution of the seas, and with good reason. It is the primary source of international law governing ocean affairs. At present, there are 145 States parties to the Convention, and its principles are universally applicable. The three main institutions established under the Convention have made significant progress in their respective areas.

The Commission on the Limits of the Continental Shelf continues to play a significant role in assisting States in the preparation of submissions with respect to the outer limits of the continental shelf. The revised rules of procedure were adopted in April 2004, simplifying procedures for States wishing to prepare submissions. However, implementation of article 76 of the Convention still poses a great challenge to many States. We hope that the Commission's continued focus on technical assistance and capacity-building for States in the preparation of their submissions will help expedite the submissions process. We urge that adequate resources be allocated to that vital function of the Commission to help diversify programmes and maximize the dissemination of expertise, particularly to developing coastal States.

The Government of Kenya has constituted an inter-ministerial technical committee to consider delimitation of Kenya's maritime zones. Issues under consideration by that committee include the review of maritime maps and charts deposited with the United Nations prior to the adoption of the Convention, modalities of delimiting maritime zones and a review of baselines. The committee is also considering a comprehensive revision of Kenya's maritime laws and other laws relating to exploration and exploitation of natural and mineral resources within its maritime zones to ensure compliance with the Convention.

A review of the work of the International Seabed Authority (ISA) over the past decade shows significant progress in administration and regulation of activities in the international seabed beyond national jurisdiction. It has adopted a regulatory framework for prospecting and exploring for polymetallic modules, and work on the elaboration of similar regimes to govern other resources in the seabed is under way. We encourage the Authority to continue collaborating with technical and scientific experts and institutions to ensure a wider dissemination of marine scientific research.

We note with satisfaction that the Authority, in the development of a regulatory regime for resources in the area, gives due regard to the conservation and protection of the marine environment and its rich biodiversity and to the need to ensure a balanced distribution of the benefits of deep seabed resources.

The International Tribunal for the Law of the Sea (ITLOS) plays an important role in the peaceful settlement of disputes arising from the application and interpretation of the Convention. The jurisprudence emanating from the Tribunal provides useful guidance to States in the management of maritime disputes. We urge adequate budgetary support to the Tribunal to facilitate its smooth operation and effectiveness.

In 2002, the Assembly, upon the recommendation of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea, called for consideration of ways to improve the management of risks to maritime biodiversity. That was reiterated in resolution 58/240, which urged the protection of maritime ecosystems and biodiversity in areas beyond national jurisdiction. That was further reinforced by the World Summit on Sustainable Development's Plan of Implementation and the seventh meeting of the Conference of the Parties to the Convention on Biological Diversity, held in Kuala Lumpur in February this year. It is evident that there is an urgent need to increase focus on conservation and sustainable use of biodiversity in marine areas beyond national jurisdiction. That biodiversity constitutes a vast reserve of resources and organisms of significant economic, scientific and environmental value. A balance must be struck between the need for economic exploitation and the need for conservation.

We therefore urge that a working group be established to examine existing regimes in this area and to look into modalities for conservation and sustainable use of biodiversity and for the protection of vulnerable marine ecosystems.

The protection of the coastal and marine environment is of critical importance to Kenya. At the national level, a comprehensive review of our maritime laws is being undertaken to enhance protection measures and to ensure harmonization with international and regional instruments. At the regional level, Kenya participates in a number of initiatives, including the United Nations Environment Programme Regional Seas Programme and the activities undertaken under the auspices of the Nairobi Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region. We welcome the outcome of the Fifth Global Meeting of the Regional Seas, held in Nairobi from 25 to 27 November 2003, which culminated in the development of the regional seas strategic directions for 2004-2007. We further welcome the launching of a project in July this year by the Conference of States Parties to the Nairobi Convention to address the adverse effects of land-based activities in the Western Indian Ocean region.

The 1995 Fish Stocks Agreement is critical for the achievement of a sustainable global fisheries regime. In July 2004, Kenya acceded to that Agreement and is committed to its full implementation. We urge States that are not yet parties to the Agreement to consider ratification and accession to the Agreement to ensure coordinated and cooperative efforts in the management of fisheries. It is through adherence to that Agreement and other related global and regional fisheries agreements that we will be able to attain our common goal of balancing the need to contain the adverse effects of fishing on the marine ecosystem with the need to maintain fishing as a viable economic activity.

The regional fisheries management organizations play an important role in the implementation of the 1995 Fish Stocks Agreement. We urge increased support and funding for those organizations to enhance their effectiveness. Initiatives in that regard should concentrate on capacity-building for developing countries to enable them to maximize their economic potential in their fisheries sectors, while at the same time ensuring sustainability and conservation of marine ecosystems and biodiversity.

The Open-ended Informal Consultative Process on Oceans and the Law of the Sea has proved quite useful as a forum for the comprehensive exchange of views on ocean affairs. The theme for this year, "New sustainable uses of the oceans, including the conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction", enabled participants to focus on this complex and sensitive subject. We urge greater focus on this topic in our subsequent deliberations.

Although gains have been made in the implementation of the Convention on the Law of the Sea and related agreements, full implementation is far from being achieved. This is the challenge before us as we celebrate this tenth anniversary. We need to re-examine our respective national implementation measures and mechanisms to ensure better implementation. This may call for a review of our internal policies and legislation. It is noteworthy that lack of capacity is the main constraining factor for many developing countries. Successive General Assembly resolutions have underscored the need to build capacity for developing countries. We note with appreciation that the United Nations has developed an integrated mechanism consisting of a wide range of advisory services, trust funds, training programmes and technical assistance to address that need.

Mr. Gómez Robledo (Mexico) (*spoke in Spanish*): Today is cause for celebration in the United Nations. The commemoration of the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea brings a festive atmosphere to this room. For many, the Convention is also known as the constitution of the oceans.

Over this period of time, we have seen just how fundamentally important the Convention is for the maintenance and strengthening of international peace and security, as well as for the sustainable management of the oceans and seas. Without any doubt, it has brought stability, certainty and order to the use and management of the immense oceanic space.

Having completed the first decade after entry into force, the Convention has shown that it is one of the most vigorous and visionary successes of this Organization. Today its legal framework has been strengthened, and it has promoted dynamism in the law of the sea. We are convinced that the Convention continues to provide the core standards around which all developments and activities in the oceans and seas develop.

Marine scientific research is also one of the most dynamic sectors at the moment. The high degree of sophistication achieved in exploring the oceans has, among other things, facilitated the speedy generation of scientific data and their application in the area of technological innovation, and in this way we have multiplied new discoveries.

This is even clearer when we think about the knowledge that we have of the biological diversity of the ocean depths. Although science has made progress in this area, we feel that the international community still does not have a complete vision of the interrelationship among all the multidisciplinary aspects of the conservation and sustainable use of marine biodiversity, both on the high seas and on the international seabed.

Because of this, my delegation would like to express its great satisfaction with the setting up of an ad hoc open-ended informal working group to study issues relating to the conservation and sustainable use of biological marine diversity beyond areas of national jurisdiction. That is one of the most important aspects of the draft resolution on oceans and the law of the sea (A/59/L.22), and for that reason Mexico would like to express its thanks to all delegations that participated in the negotiations on this draft resolution. All delegations, without exception, contributed towards this achievement.

As in previous years, Mexico notes that resolutions in this area have become guides for the protection and preservation of the marine environment. Given the gradual deterioration of the marine environment, we need urgent action to protect it, and in this respect Mexico particularly welcomes the draft resolution's reference to actions oriented towards the protection of coral reefs.

Mexico is also convinced that there is a close relationship between the protection of vulnerable marine ecosystems and the safety of navigation. For that reason, it is important that we have precise nautical charts in order to reduce the possibility of shipping accidents and their consequences for human life and the marine environment in general. We urge the international financial institutions and the community of donors to redouble their efforts to promote training in developing countries in the drawing up of nautical charts and in improving their hydrographic services.

We recognize that a great part of the environmental deterioration in coastal and marine areas is a result of land-based activities. For that reason, we encouraged the Consultative Process at its sixth meeting to examine the subject with a view to promoting the overall application of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities. We encourage it to give greater importance to the link between fresh water, the coastal area and marine resources in the application of the development objectives set out in the Millennium Declaration, the Johannesburg Plan of Implementation and the Monterrey Consensus on Financing for Development.

One priority subject for Mexico is that of regional cooperation for the overall management of the oceans, and particularly for the effective implementation of the Convention. Of specific interest is the establishment of geographic data and maritime delimitation. We are convinced that regional initiatives, such as the Maritime Delimitation Workshop for Officials of the Organization of the Eastern Caribbean States, are very useful tools in the provision of the technical assistance needed for that purpose by Caribbean States. Mexico continues to be committed to that initiative and recently contributed for the third time to the conference assistance fund that was set up for the specific purpose of facilitating technical assistance to countries in negotiations on maritime delimitation. We would like to thank the Division for Ocean Affairs and the Law of the Sea for the invaluable help given to the conference in that respect.

Mexico would also like to express its support for the work of the International Seabed Authority, and we thank its Secretary-General, Mr. Satya Nandan, and all the staff under his direction. We attach great importance to the work of the Authority in the collection, analysis and dissemination of scientific data, as well as its work in coordinating marine scientific research in line with article 143 of the Convention.

In that respect, we welcome the holding — although the circumstances were very difficult from a climatic point of view — of the workshop for the establishment of environmental baselines for future contractors involved in the exploration of polymetallic sulphides and cobalt-rich crusts, held recently in Kingston.

We are convinced that it is necessary to continue to support the voluntary fund in order to defray the participation costs of specialists from developing countries in the meetings of the Legal and Technical Commission and the Finance Committee.

With regard to progress in discussions on regulating prospecting and exploration for polymetallic sulphides and cobalt crusts in the Area, Mexico believes that work should continue within the framework of the Authority to ensure that the draft regulations reflect the general principles of international law as they relate to the environment. Similarly, and in light of the vulnerability of deep-sea ecosystems, we should also consider the possibility of including in the draft regulations strict liability for damage to the marine environment of the Area. We must not lose sight of the fact that article 304 of the Convention is a general provision that does not prevent the ongoing development of standards on liability in international law.

Another area in which the promotion of capacity and cooperation with developing countries is important relates to the application of article 76 of the Convention on the establishment of the limits of the outer continental shelf. We believe that without such training it will be practically impossible for a large number of countries to complete their presentations to the Commission on the Limits of the Continental Shelf by 2009. That aspect should be given urgent attention if we truly wish countries to be able to make their presentations to the Commission on time.

In that respect, we encourage the Secretary-General to promote preparation training courses along the lines proposed by the Commission on the Limits of the Continental Shelf. We also feel it especially important that the Division for Ocean Affairs and the Law of the Sea complete the training manual to help States prepare their presentations.

We also thank the Secretary-General for his work in the preparation of the various reports under consideration. We look forward to receiving his report under article 319 of the Convention. In that respect, we invite the Secretary-General to give increasing attention to the peaceful settlement of disputes in his main report on oceans and the law of the sea. The significant contributions of the International Tribunal for the Law of the Sea and the International Court of Justice in the peaceful solution of conflicts should also be stressed.

In that context, we also thank Mr. Vladimir Golitsyn, Director of the Division for Ocean Affairs and the Law of the Sea, and his team for their excellent work in promoting the implementation of the Convention.

Mr. Samy (Egypt) (*spoke in Arabic*): At the outset, I wish to thank the Secretary-General for his reports under the item "Oceans and the law of the sea". They reflect his important role and responsibilities, especially those under the United Nations Convention on the Law of the Sea with regard to managing ocean affairs and the law of the sea and to presenting comprehensive annual and special reports.

The reports under consideration today are of special significance in addressing the legal regime arising out of the 1982 United Nations Convention on the Law of the Sea, one of the most important international legal instruments. Its entry into force in 1994 had considerable positive impact on the legal regime under the 1982 Convention. The international community accords special importance to the Convention, as reflected in the growing number of States acceding to it every year. It now has 154 States parties. We call on those members of the international community that have not done so to accede to this important Convention.

Egypt participated actively in the establishment of the three institutions of the Convention: the International Seabed Authority, the Commission on the Limits of the Continental Shelf and the International Tribunal for the Law of the Sea. We therefore appeal to the international community to implement the legal regime set forth in the Convention on the Law of the Sea by applying its provisions at the national level. In that regard, we call attention to the need to preserve special ocean resources, for we believe that maritime environmental protection is the responsibility of the international community as a whole. We wish in that respect to commend the outstanding efforts made by the International Seabed Authority and the Secretary-General.

Current studies indicate that fisheries production is on the rise, yet future demands for fish will go unmet unless we improve the management of ocean and sea resources. That fact is all the more salient in the light of the failure of the current legal regime to protect fisheries and fish resources from exploitation beyond their natural capacity to replenish themselves. The problem is compounded by reluctance and the lack of political will in some States to respect rules regulating quantities and methods of fishing. We therefore call on those States to adhere to the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and to the Code of Conduct for Responsible Fisheries. They should also draft rules on responsible trading in ocean products in such a way that the Convention complements the Code.

We wish to note that the Convention assigns special importance to that matter. In article 192, it stresses the general obligation of States to protect and preserve the marine environment, and in 194 (5) focuses on the preservation of depleted, threatened or endangered species and other forms of marine life. I would further emphasize the important contents of paragraphs 262 of document A/59/62 on bioprospecting and its relation to and impact on the environment. Such activity highlights the need to implement the Convention's legal regime on scientific research into the deterioration of maritime ecosystems. Despite national efforts and a few success stories, we regret the ongoing general deterioration of the conditions of the oceans.

In that respect, I would note that Egypt has taken certain important measures to protect some maritime environments and to declare certain ecosystems as protected natural areas.

Mr. Sinaga (Indonesia): At the outset, I congratulate the Secretary-General for his comprehensive report on oceans and the law of the sea, and the Division for Ocean Affairs and Law of the Sea for its contribution to supporting the work of States Members of the United Nations on this agenda item.

More than a decade has passed since the entry into force of the 1982 United Nations Convention on the Law of the Sea. As the report indicates, 145 countries are now parties to the Convention. No Convention has enjoyed such wide participation within the international community as this one. It constitutes a landmark step by the international community towards regulating ocean affairs for the benefit of all mankind. It codifies States' practices in the context of their claim to portions of the sea adjacent to their coastal areas, and it introduces new legal frameworks on ocean-related activities beyond national jurisdictions, making it a veritable constitution of the oceans.

Looking back, we can see that the lengthy process of negotiations preceding the adoption of the Convention was a reflection of the importance of dealing with delicate issues of ocean governance in such a way as to meet the interests and expectations of the international community as a whole. That was finally achieved by means of a workable compromise in various areas of ocean affairs. The implementation Agreement for particular issues relating to ocean affairs, concluded at a later stage, clearly reflected an approach aimed at securing the wider participation of States in the Convention. In addition, further arrangements on highly migratory and shared fish stocks were designed to enhance management and conservation measures for fisheries activities on the high seas.

Several new issues relating to ocean affairs have now emerged, as the report of the Secretary-General indicates. New technology has opened up new opportunities for States to exploit marine resources that were not anticipated at the time of the adoption of the Convention. Further elaboration is needed, therefore, in order to ensure sustainability. We are now witnessing new kinds of exploration of the living resources of the seabed in areas beyond national jurisdiction that bring economic advantage. Although little information is available on the matter at this time, the report alerts us to the possible impact of such activities on biological diversity. The challenge for the international community, therefore, is to manage those resources properly in order to ensure that the benefits can be shared among all States, particularly the developing ones.

It is worth noting that the report of the Secretary-General stipulates that the legal framework of the Convention serves as a reference and can be applied to issues relating to the conservation and management of the biodiversity of the seabed in areas beyond national jurisdiction. Against the backdrop of the commemoration of the 10-year anniversary of the entry into force of the Convention, it would be wise to hope that States show a firm commitment to ensuring that new ocean affairs issues will be addressed fairly, taking into account the interest of developing countries.

My delegation shares the view that capacity-building constitutes an essential element to enable developing States to take a more active part in concerted efforts to manage and conserve marine resources. Like most developing countries, Indonesia attaches particular importance to the need for States to enhance cooperation through, inter alia, sharing information for capacity-building purposes. The importance of the transfer of marine technology also seems relevant in that regard. It is through such cooperation that efforts to promote marine scientific research by coastal States in order to conserve marine resources can bear fruit.

Technical assistance from international institutions is also relevant and important, particularly with respect to the preparation of submissions to the Commission on the Limits of the Continental Shelf. Given the complicated technical aspects of the implementation of article 76 of the Convention, such assistance would enable developing States, such as Indonesia, to meet the deadline suggested by the Commission. If States meet the deadline, that will accelerate the work of the Commission in making recommendations on the matter.

It is interesting to note that this year in the Asia-Pacific region we also witnessed the implementation of conservation management measures for highly migratory fish stocks and shared fish stocks resulting from the Fish Stocks Agreement of 1995. The entry into force of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean on 19 June 2004 will be a test case for the efficacy of conservation management introduced by the Fish Stocks Agreement prior to its review scheduled for 2006. My delegation is therefore of the view that that review should be directed at improving conservation and management measures under the Agreement; it should not discourage the wider participation by States interested in joining the Agreement.

Indonesia also takes note of the international effort to introduce more stringent controls in the prevention and suppression of acts of terrorism at sea. The revisions and amendments to the various regulations and conventions adopted by the International Maritime Organization, such as the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) and its Protocol of 1988, as well as the International Ship and Port Facility Security (ISPS) Code, are designed to meet that objective.

As for the inclusion of provisions of the SUA Convention and its Protocol concerning ship boarding on the high seas, Indonesia is of the view that that effort should be brought into line with international law in order to avoid unnecessary restrictions on freedom of navigation. In that regard, the principle of flag State jurisdiction has to be respected.

While acknowledging the importance of the war against terrorist acts in all their forms and manifestations, we should not lose sight of the importance of upholding the rule of international law.

Only through concerted multilateral efforts can States effectively combat terrorism.

On the issue of enhancing maritime security, Indonesia has been implementing the ISPS Code, and by July 2004 several ports in Indonesia had met the requirements of that Code. Similarly, together with Malaysia and Singapore, Indonesia has intensified joint patrol activities in the Malacca Strait. That collaboration has successfully reduced the number of reported incidents. However, Indonesia would like to express its concern regarding the system for reporting piracy and armed robbery against ships used by the International Maritime Bureau.

As the Secretary-General's report indicates, most attacks worldwide take place while ships are anchored or berthed, and Indonesia is no exception. Many incidents of armed robbery directed against such ships are reported to have occurred while ships were docked in ports, and therefore they do not meet the legal definition of piracy. That does not mean, however, that Indonesia tolerates such criminal acts in its territorial waters — nor would we let the perpetrators of such criminal acts go unpunished. Indonesia is fully aware that the situation creates a negative image of the maritime situation in our archipelago, and we are committed to combating such criminal acts. However, the amalgamation of two different criminal acts into one single classification for statistical purposes only results in the distortion or misrepresentation of facts, since different legal regimes apply to acts of piracy and acts of armed robbery against ships. Indonesia would like that distinction to be upheld, consistent with international law.

A review of the reporting system is also advisable, as the criminal acts differ significantly in nature. Since the report of the IMB does not reflect the actual situation in the field, it can, in the final analysis, lead to the conclusion that maintaining such an approach would only give unfair treatment to the affected States, as they have to bear higher costs for sea transportation.

In light of the aforementioned, Indonesia is fully aware of the importance of continued efforts of the international community to find a constructive and balanced approach to address various issues of ocean affairs. It is, therefore, a distinct pleasure for my delegation to co-sponsor draft resolution A/59/L.22. It is our sincere hope that all Member States will lend their support to the draft resolution.

Mr. Hachani (Tunisia) (*spoke in French*): First of all, may I take this opportunity to express my gratitude to the Secretary-General for the remarkable work he has done in drawing up his detailed and exhaustive report on oceans and the law of the sea (A/59/62 and Add.1). My thanks also go to the Division for Ocean Affairs and the Law of the Sea for their dedication to the success of our work.

We are dealing with the agenda item entitled "Oceans and the law of the sea" on the very same day we are celebrating the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea, a text of historic impact. The Convention has made an indisputable contribution to the codification of international law of the sea and is an important milestone in the establishment of a global legal framework for governance of the various marine areas and their living and non-living resources.

We take this opportunity to note with satisfaction the operation and work of the institutions created under the Convention, in particular the International Tribunal for the Law of the Sea, the International Seabed Authority and the Commission on the Limits of the Continental Shelf.

The draft resolutions and today's debate on the report of the Secretary-General confirm the attachment of the General Assembly to matters relating to oceans and the law of the sea. This stems from a context notably marked by fears related to the serious implications that will arise for future generations from the continuing degradation of marine ecosystems and from the over-exploitation of marine biological resources.

As reflected in the results of the World Summit on Sustainable Development, there is increasing awareness of the importance of oceans and seas for the land ecosystem. They play a crucial role in assuring food security, particularly for developing countries, in maintaining economic prosperity and in contributing to the well-being of present and future generations.

The protection and preservation of the marine environment and its fisheries resources are a source of continuing concern for Tunisia, a developing coastal country whose territorial waters are adjacent to the high seas. In fact, in the Mediterranean, a semienclosed sea, the flora and fauna are increasingly threatened by pollution from land-based and shipping sources.

The General Assembly has an essential role to play in the area of protecting and sustainably using marine resources; in other words, it has the role of guiding, monitoring and coordinating the programmes set up by specialized organs and institutions. In that respect, the general legal framework provided by the Convention for the protection of the marine environment and the conservation of the ocean's resources is a key accomplishment that should guide all international work in this area.

The other relevant international instruments, such as the 1975 Barcelona Convention and its amended protocols, develop in particular the aspect of special protected areas. Agenda 21, the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and the various actions undertaken by relevant international organizations of the United Nations system are all reference points relating to the protection of the marine environment and the conservation of the ocean's resources.

By setting up a system for the exploitation of marine resources beyond national jurisdiction that provides for a fair sharing of the resources, the Convention has reflected the aspiration for a fair and just international economic order to govern oceanic space. The concept of the common heritage of humanity that it conveys crystallizes all the hopes of developing countries for a world based on peace, justice, solidarity and progress for all.

That is why, while understanding the reasons mentioned for reconsideration of certain aspects of the regime as laid out in the Convention — that is, the adaptation of the Convention to new economic and political realities — Tunisia stresses the interest of developing countries in preserving the spirit of the Convention. In that respect, we note with satisfaction the compromise solution contained in the draft resolution before us, A/59/L.22, which consists of setting up an informal open-ended working group with the mandate of studying questions relating to conservation and the sustainable use of marine biodiversity in zones situated beyond national jurisdiction.

Mr. Sen (India): My delegation welcomes the opportunity to participate in the debate on this item during the tenth anniversary year of the entry into force of the 1982 United Nations Convention on the Law of the Sea. We thank the Secretary-General for his comprehensive reports on matters relating to the law of the sea and ocean affairs.

The United Nations Convention on the Law of the Sea sets out the legal framework within which all activities in the oceans and seas must be carried out. Accordingly, the need for its universal acceptance cannot be overemphasized, and we welcome the steady increase in the number of States parties to the Convention.

It is a matter of deep satisfaction that all subsidiary institutions under the Convention — the International Seabed Authority, the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf — have made considerable progress in their respective areas of work in the past year. India has been working closely with all those institutions. We have invested heavily in the exploration of minerals in the deep seabed. We continue to incur considerable expense for collection of data as a primary investor and now as a contractor.

The International Seabed Authority is currently involved in the development of a legal regime for prospecting and exploration of polymetallic sulphides and cobalt-rich crusts. We appreciate the role of the Authority in the conservation of biodiversity in the Area, especially its elaboration of the rules, regulations and procedures to ensure the effective protection of the marine environment, the protection and conservation of the natural resources of the Area and the prevention of damage to its flora and fauna from harmful effects that may arise from activities in the Area.

During the last session of the International Seabed Authority, India was elected a member of the Council in Group B, representing States that have made the largest investment in seabed mining. We congratulate Ambassador Satya Nandan on his re-election as Secretary-General of the Authority for another four-year term.

At its thirteenth session, the Commission on the Limits of the Continental Shelf finalized and adopted a revised set of rules of procedure on the basis of the practical experience gained by the Commission from receiving and examining its first submission. We welcome the revised set of rules of procedure. The

Commission is currently examining the second submission, made by Brazil on 17 May 2004.

We understand that a number of countries have indicated the submission of their claims between 2005 and 2008. The developing countries that are in the process of preparing submissions to the Commission might require help, in some cases to enhance their capacity. In this regard, States that have expertise in the delineation of the outer limits of the continental shelf could extend such cooperation by providing assistance to developing States.

India has the requisite expertise on the assessment and mapping of the continental shelf and is willing to extend cooperation in training to developing countries for that purpose. In this context, we also welcome the publication by the Division of Ocean Affairs and the Law of the Sea of a training manual to assist States to develop the requisite knowledge and skills to prepare their submission in respect of the outer limits of the continental shelf.

May I also add in this context, that in the spirit of South-South cooperation and to the extent appropriate and practicable, India is willing to share its technologies in fields ranging from ocean data collection to anti-erosion capabilities and submersible energy.

The International Tribunal for the Law of the Sea has been active as an independent judicial body, established by the Convention to adjudicate disputes arising out of its interpretation or application. It has decided a number of cases involving a wide variety of issues, such as freedom of navigation and other internationally lawful uses of the seas. The enforcement of customs laws, refuelling vessels at sea, the right of hot pursuit, conservation and sustainable use of fish stocks, provisional measures and matters involving land reclamation. The Tribunal enjoys a high reputation for fairness and integrity.

The international community has continued to focus, over the past year, on issues relating to navigation, conservation and management of living marine resources and conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction.

In the area of navigation, we would like to express our serious concern with the increase in the reported incidents of piracy and armed robbery against ships, which have risen to 3,041 in the period from 1984 to the end of March 2003. The involvement of militia groups in kidnapping crews in politically vulnerable areas calls for close attention. Piracy attacks have taken place in certain geographical hotspots, not in the open sea, but in territorial waters, while the ships were at anchor or berthed.

Regional cooperation in high-risk areas has been identified as an important measure to combat crimes at sea. India, along with 15 other States of the region, has been involved in the ongoing efforts initiated by Japan to establish a regional cooperation agreement on anti-piracy measures. May I also add that the Indian navy is playing a very useful and productive role in combating piracy in the seas adjacent to it.

The prevalence of illegal, unreported, and unregulated (IUU) fishing is causing severe problems affecting world fisheries, particularly in developing countries and is likely to have far-reaching adverse consequences for the long-term sustainable management of fisheries. It is a matter of grave concern that overfishing continues to take place in contravention of applicable regional conservation regimes, and that States are not meeting their obligations to address complaints by their flag vessels and nationals.

Excess capacity has been cited as a key factor in IUU fishing and overfishing in general. Hence, emphasis has been placed on the need for capacity reduction, where excess capacity exists, and on the need to increase the capacity of developing States to achieve sustainable fisheries, both in areas under national jurisdiction, and on the high seas. In this context, we agree with the recommendation made by the Food and Agriculture Organization of the United Nations (FAO) technical consultation to continue to use funds to assist developing States in collecting and assessing comprehensive data on IUU fishing.

The preservation of vulnerable marine ecosystems and biodiversity in areas beyond national jurisdiction has been the focus in recent times in the subsidiary bodies created by the Convention, and also in the Conference of the Parties to the Convention on Biological Diversity. It is currently estimated that approximately 98 per cent of known marine species live in benthic environments and that more species live in benthic environments than in all other environments on earth combined. The biological communities located

beyond the national jurisdiction, on the deep seabed, such as sea mounds, deep sea corals, hydrothermal vents and other features, which include cold seeps and pockmarks and soft-sediment environments, such as abyssal plains, trenches and submarine canyons, have been identified as vulnerable to fishing and marine science research, including bioprospecting.

The discovery of deep seabed communities has opened opportunities for prospecting of chemosynthetic organisms, characterized by a molecular structure allowing them to live in water exceeding 100 degrees Centigrade, at extremely high pressures, extremophiles. Due to the species' robust nature, for example, the enzymes can be exposed to harsh conditions and high temperature. Extremophiles are used in a number of industrial processes, ranging from liposomes for drug delivery and cosmetics, to waste treatment, molecular biology and food and agricultural processes. It appears that the commercial use of naturally occurring extremophiles is likely to increase in the near future.

The impact of scientific research and bioprospecting on these fragile ecosystems, leading to habitat loss and mortality, must be regulated in such a way as to ensure the sustainable use of biological resources, including the equitable sharing of benefits to humankind as a whole, in accordance with the general principles of the Convention on the Law of the Sea and the Convention on Biological Diversity.

In this connection, we would like to express our support for the establishment of the ad hoc and open-ended informal working group envisaged in the draft resolution on oceans and the law of the sea (A/59/L.22) to study issues relating to the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction.

Mr. Hannesson (Iceland): At the outset I would like to commend the Secretariat, in particular the able staff of the Division for Ocean Affairs and the Law of the Sea, headed by its new Director, Mr. Vladimir Golitsyn, for its comprehensive report on oceans and the law of the sea (A/59/62), and the report on sustainable fisheries (A/59/298). Let me also acknowledge the professional manner in which the coordinators, Mr. Marcos de Almeida (Brazil), Ms. Jennifer McIver (New Zealand) and Ms. Holly Klehler (United States) conducted the informal consultations on the omnibus and fisheries draft resolutions (A/59/L.22 and A/59/L.23, respectively). These consultations turned out to be particularly challenging this year, and we wish to thank all of the participants for their constructive contributions.

It is highly appropriate today, on the tenth anniversary of its entry into force, to recall the United Nations Convention on the Law of the Sea, which is without doubt one of the greatest achievements in the history of the United Nations. It is the first and only comprehensive treaty in the field of the law of the sea. It contains both codified rules of customary law and a number of innovations covering all uses, not only of oceans and seas, but also their superjacent airspace and subjacent seabed and subsoil.

The Convention on the Law of the Sea thus provides the legal framework for all of our deliberations on the oceans and the law of the sea. We welcome the ratification of the Convention today by our neighbouring country, Denmark, and urge those States that still have not ratified the Convention to do so in order to achieve the ultimate goal of universal participation.

It is imperative that the Convention be fully implemented and its integrity preserved. Issues that were settled at the Law of the Sea Conference should not be reopened. In this respect, it must be borne in mind that the conclusions of the Conference are regarded as a package, individual States prevailing in some areas but having to compromise on others.

On this occasion we note with satisfaction that the three institutions established under the Convention are functioning well. The International Tribunal for the Law of the Sea has already adjudicated a number of disputes in this field. The International Seabed Authority is actively preparing for future exploitation of mineral resources in the international seabed area. The Commission on the Limits of the Continental Shelf has begun its consideration of the first submissions regarding the establishment of the outer limits of the continental shelf beyond 200 nautical miles, and a number of coastal States, including Iceland, have stated their intention to make submissions within the next few years. It must be ensured that the Commission will be able to fulfil the functions entrusted to it under the Convention, taking into account, in particular, the expectation that new submissions will require parallel meetings of several subcommissions for their examination.

As recognized in the draft omnibus resolution, it is important that States exchange views in order to increase understanding of issues arising from the application of article 76 of the Convention, thus facilitating the preparation of submissions by States to the Commission, in particular developing States. For this purpose, the Law of the Sea Institute of Iceland and the Center for Oceans Law and Policy of the University of Virginia School of Law co-hosted last year a conference in Reykjavik on the legal and scientific aspects of continental shelf limits. The proceedings of the conference have now been published in a book and the Law of the Sea Institute of Iceland is in the process of distributing a copy to all developing States.

In this context, it also gives me pleasure to inform the General Assembly of the decision by the Government of Iceland to make a contribution of $100,000 to the trust fund for the purpose of facilitating the preparation of submissions to the Commission by developing States, in particular the least developed countries and small island developing States, and to facilitate compliance with article 76 of the Convention. Furthermore, my Government has decided to make a contribution of $50,000 to the trust fund to assist members of the Commission from developing States to participate in its meetings.

The 1995 Fish Stocks Agreement is of paramount importance, as it strengthens considerably the framework for the conservation and management of those stocks by regional fisheries management organizations. The provisions of the Agreement strengthen in many ways the relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and some of the provisions represent a development of international law in this area. However, the effectiveness of the Agreement depends on its wide ratification and implementation, and we encourage those States that have not ratified the Agreement to do so.

Following the initiative in the first two rounds of informal consultations of States parties to the Agreement, the General Assembly decided last year, in its resolution 58/14, to establish an assistance fund under part VII of the Agreement to assist developing States parties in the implementation of the Agreement. The United Nations and the Food and Agriculture Organization of the United Nations (FAO) have now concluded an arrangement regarding the administration of the assistance fund. I am happy to inform the Assembly of the decision by my Government to make a contribution of $50,000 to the assistance fund.

It is the view of the Government of Iceland that the General Assembly should focus on specific issues that have global implications, and not on issues that fall within the purview of the sovereign rights of States or under the responsibility of regional fisheries management organizations. The General Assembly should address issues that are global in nature and can only be solved through global cooperation. We should thus address marine pollution, which respects no boundaries and must therefore be met with global action. We should also address the need for a level playing field for the fisheries sector that encourages sustainable fisheries globally, including the need to remove fisheries subsidies. Further examples can be identified. Conservation and the sustainable utilization of living marine resources is, on the other hand, a local and regional matter. We can, therefore, not accept opening the door for global micromanagement of fisheries, which are subject to the sovereign rights of States or under the responsibility of regional fisheries management organizations.

In this light, we are satisfied with the outcome of the informal consultations on the omnibus and fisheries resolutions with respect to destructive practices that have adverse impacts on marine biodiversity and ecosystems. The relevant paragraphs in the two draft resolutions recognize that it is for the relevant States or regional fisheries management organizations, as appropriate, to regulate these destructive practices and to take decisions on any interim or long-term management measures. Iceland was among those States that insisted that these paragraphs should apply, in principle, to areas both within and beyond national jurisdiction. The rationale for this position is, of course, that vulnerable marine ecosystems located in the exclusive economic zone require no less protection from destructive practices than those located on the high seas.

Iceland, like many other coastal States, has been applying area restrictions and closures as one of its fisheries management tools for many years. Within our national jurisdiction, there are several areas that have various levels of protection, many of which offer complete protection for vulnerable habitats on the seabed. The area closures are the subject of continuous review. Presently, Icelandic authorities are undertaking a review with the specific purpose of reassessing the protection currently given to vulnerable habitats, including deep-water corals, and the possible need for increased protection. This review and other work undertaken in this field are based on a new report by a Government committee on Iceland's policy on ocean affairs. The policy aims at maintaining the future health, biodiversity and sustainability of the ocean surrounding Iceland in order for it to continue to sustain and promote the nation's welfare.

At the regional level, Iceland took part only last week in the establishment of an interim measure for the protection of vulnerable deep-water habitats in the high seas of the North Atlantic Ocean. The North-East Atlantic Fisheries Commission (NEAFC) agreed on an interim prohibition of bottom-trawling and fishing with static gear on a number of seamounts and a section of the Reykjanes ridge, south of Iceland, for a three-year period. During this interim period, the Commission will assess its work on this issue, seek further scientific advice and assess possible enforcement issues that may arise, with the aim of having appropriate conservation and management measures in place by 2008. The Commission has shown its commitment to taking the necessary action to protect vulnerable habitats, and it is important that such work be performed on a case-by-case and scientific basis as recognized in the draft resolution on fisheries.

Iceland welcomes that increased attention is being devoted to ocean issues in the world. I would like to share with you some of the more recent developments in this respect within the Arctic Council, which Iceland currently chairs.

Last week, the Arctic Council, in cooperation with the International Arctic Science Committee, launched the Arctic Climate Impact Assessment (ACIA). The scientific message from this comprehensive assessment is that the climate is now changing faster across the Arctic then anywhere else in the world. Those changes are impacting the environment and people in the Arctic region and have implications for the world at large. More than half of the Arctic region is ocean and the ACIA pays special attention to coastal and marine issues.

The assessment projects that the warming climate will bring about ecosystem shifts in the ocean. As a result, increased productivity is likely to occur among some species of fish, including herring and cod. At the same time, cold-water fish species and mammals are expected to move northward or may even be forced into decline. Furthermore, the thinning sea ice allows stronger wave generation by winds, causing increased coastal erosion along Arctic shores. Those effects are already apparent and much larger changes are projected to occur during this century.

The projected decline in Arctic sea ice will widely increase access to natural resources in the Arctic waters, including oil, gas and fish stocks. We can expect that increased offshore developments in the Arctic in the years to come will raise questions of national sovereignty over resources and add to the need for new and better adapted environmental protection regulations.

In the context of increased development and climatic pressures on the Arctic marine environment, I would like to draw particular attention to the Arctic Council's Marine Strategic Plan for the protection of the Arctic marine environment, to be submitted to the fourth Arctic Council Ministerial meeting next week. The strategy is based on an integrated ecosystem-based approach to sustainable ocean management. In launching the strategy, the Arctic Council is contributing in a significant way to the follow-up of the Johannesburg Plan of Implementation.

The Arctic Marine Strategic Plan sets out the vision and goals, as well as a number of strategic activities, to help address sustainable development of the Arctic marine environment. Such a strategy should offer numerous opportunities. It will help us to confront existing conditions, including pollution, and provide a means to address new and emerging challenges. One example is the possible opening of new Arctic sea routes due to melting sea ice.

The decision by the General Assembly, in its resolution 57/141, to establish a regular process under the United Nations for global reporting and assessment of the state of the marine environment, including socio-economic aspects, acknowledges that international action is needed to prevent and counter marine pollution and physical degradation of the marine environment. For us to succeed in that task, accessible and authoritative information and advice are needed, particularly regarding the socio-economic consequences of the degradation of the marine environment. The regular assessment process should provide the basis for responsible decision-making to improve the situation.

During the international workshop on the regular process held in conjunction with the fifth meeting of the Informal Consultative Process on Oceans and the Law of the Sea, it emerged that more time is needed to define the basic objectives and scope of the regular process. The Government of Iceland is prepared to continue working with other interested countries in order to fulfil the mandate of resolution 57/141 and to launch, in due time, a regular process that is both focused and prioritized.

The Acting President: I call on the representative of the United States to introduce draft resolution A/59/L.23.

Mr. Siv (United States): My delegation has the honour to co-sponsor draft resolution A/59/L.22 entitled "Oceans and the law of the sea".

Before I introduce draft resolution A/59/L.23 on sustainable fisheries, I would like to make a technical correction to the text, as agreed upon in consultations. In both paragraphs 66 and 67, following the words "including bottom trawling", the comma should be deleted and the word "which" replaced with the word "that".

I am honoured to introduce on behalf of the sponsors draft resolution A/59/L.23 on sustainable fisheries. I am pleased to announce that, since the publication of the draft resolution, the following countries have become co-sponsors: Australia, Belgium Belize, Germany, Greece, Italy, Micronesia, Poland, Spain and Ukraine.

The United States thanks each delegation that worked to achieve those draft resolutions. We particularly appreciate the assistance given to Holly Koehler, our representative, who coordinated negotiation of the fisheries draft resolution this year. We also appreciate the efforts of Marcos de Almeida of Brazil and Jennifer McIver of New Zealand, who co-chaired the oceans draft resolution with great skill and objectivity.

A key element of the fisheries negotiations this year was protecting sensitive underwater features and vulnerable marine ecosystems from destructive fishing practices. The draft resolution calls upon States and regional fisheries management organizations to urgently address the impacts of destructive fishing practices. To that end, it calls for the interim prohibition of such practices and the adoption of conservation and management measures. The United States will work cooperatively with all States and international bodies engaged in regulating fisheries to give effect to those provisions. The fisheries draft resolution also lays the foundation for the review conference mandated by the 1995 United Nations Fish Stocks Agreement. It calls for renewed efforts to achieve sustainable aquaculture; to combat illegal, unreported and unregulated fishing; and to address fishing overcapacity, harmful subsidies and derelict fishing gear.

We are also pleased that the fisheries draft resolution once again explicitly takes up the issue of shark conservation and management. We are still concerned that many shark species remain vulnerable to exploitation due to their unique biology and lack of effective management. Unfortunately, progress in implementing the 1999 Food and Agriculture Organization (FAO) International Plan of Action for the Conservation and Management of Sharks has been disappointing. We applaud the language on sharks strengthening last year's resolution. We look forward to continuing to work with all interested to implement it at the FAO and through relevant regional organizations.

Turning to the draft resolution on oceans and the law of the sea, it is fitting that we will adopt that draft resolution today, the tenth anniversary of the Convention on the Law of the Sea's entry into force. Three years ago, in this forum, I announced the Bush Administration's support for that treaty. Now that the United States Senate committees have completed their hearings, the full Senate is in a position to approve accession to the Convention. The Bush Administration hopes that this will occur expeditiously so that the United States may join the other 145 parties to the Convention. We support the international community's efforts to fully implement the provisions of the Convention and related agreements. That will achieve the goal of establishing a legal order that will promote freedom of the seas, the peaceful uses of the oceans, the equitable and efficient utilization of their resources, the conservation of their living resources and the study, protection and preservation of the marine environment.

The highlight of this year's draft resolution on oceans (A/59/L.22) is the establishment of a working group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas under national jurisdiction. Destructive practices need to be addressed both within the exclusive economic zones and beyond. However, the areas beyond national jurisdiction present particular legal and logistical challenges for the international community. In preparation for the meeting of the working group in early 2006, the Secretariat will prepare a report on those issues, which may identify options and approaches for promoting international cooperation. We anticipate that that report will be written in consultation with relevant international bodies and interested States. That way, it can serve as a comprehensive and objective basis for the working group's examination of these novel and difficult issues.

The draft resolution also requests the Secretary-General to convene a second international workshop on the regular process for global reporting and assessment of the state of the marine environment. Recent informal contacts among States have revived hope that we can make progress next June in establishing such an information collection process, which would provide essential information for scientists and policy makers.

We also look forward to the sixth meeting of the informal Consultative Process, to be held in June. We will focus on two important topics: marine debris, and the role of fisheries in sustainable development. The Consultative Process has become a valuable means for educating United Nations delegations and for stimulating discussion that informs the negotiation of the annual oceans and fisheries draft resolutions. It also helps to coordinate the work of oceans-related bodies throughout the year.

Two months ago, the United States Commission on Ocean Policy released its final report. It highlighted for the American people the importance of the oceans to the United States. As the Bush Administration prepares its response to the report, it is keenly aware of one of the Commission's major themes: many oceans issues are inherently international issues. We will continue working during the coming years with our international partners to make the world's oceans safer, cleaner and more productive.

Mr. Zhang Yishan (China) (*spoke in Chinese*): This year marks the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea. That "constitution of the sea", which came into being after nearly 10 years of intense negotiations and consultations, has not only codified all the available customary international law with respect to the law of the sea, but has also further developed a new regime on the law of the sea, thus providing a basic legal framework for human activities on the oceans. The Chinese delegation wishes to pay high tribute to all those who have made a contribution to the Convention in the process of its negotiations.

The oceans and the sea are an integral whole, and all the aspects of that whole are closely interlinked. To meet the serious challenges now facing ocean affairs requires joint efforts by all of humanity — particularly cooperation among countries and the relevant international organizations. We encourage more countries to accede to the Convention, and we welcome the establishment of the Ocean and Coastal Areas Network. We hope that the Network will further strengthen coordination among the relevant United Nations agencies, between United Nations agencies and other relevant international organizations, and among various countries.

The Chinese Government attaches great importance to the Convention and has actively promoted its implementation and the maintenance of international order on the oceans. The Chinese Government is pleased to see that the International Tribunal for the Law of the Sea, the Commission on the Limits of the Continental Shelf and the International Seabed Authority, which were established under the Convention, have all made good progress in settling maritime disputes, in delineating the outer limits of the continental shelf and in exploring for resources and preserving the environment in the international seabed area. The Chinese Government is playing and will continue to play its part in the work of those agencies.

The Chinese delegation believes that the United Nations has the responsibility and the ability to make an even greater contribution in the realm of the sea. Ocean affairs, including matters related to the Convention, concern all humanity and therefore should be discussed within the framework of the United Nations. The Open-ended Informal Consultative Process on Oceans and the Law of the Sea was established by General Assembly resolution 54/33 and extended by resolution 57/141 to help the Assembly to review, in an effective and constructive manner, ocean affairs and the latest developments related to the law of the sea.

The establishment and extension of the Consultative Process is a reflection of the universal concern in the international community about the issue of oceans. Over the past five years, the agenda of the Consultative Process has addressed nearly all areas of the law of the sea, and the Process has become an important forum where all countries — including those not party to the Convention — discuss issues related to oceans and the law of the sea and coordinate their positions. The Chinese Government will, as always, continue to actively take part in and promote the Process so that it can achieve further results.

The Chinese delegation has noted that, through its resolution 57/141, the General Assembly established a process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects, both current and foreseeable, building on existing regional assessments. The process is therefore of great significance to the protection of the marine environment and to the promotion of sustainable development. The Chinese Government attaches importance to the global marine assessment process and has sent experts to participate in its work.

The Chinese delegation further believes that the global marine assessment process should operate within the United Nations framework, with the Organization playing a leading role, and that it should take full account of the views of all United Nations Member States. The process should also make the best use of existing global and regional assessment mechanisms so as to avoid the overlapping of work and the wasting of resources.

Activities carried out under the global marine assessment process should be consistent with the Convention and should respect the sovereign rights and jurisdiction of coastal States over marine areas under their national jurisdiction, as provided for under the Convention. The assessment areas should not be determined solely through the ecosystem approach; full consideration should be given to the geographical areas covered by existing effective regional mechanisms. It is not appropriate now to prejudge how many assessment areas there should be; the establishment and operation of the process should proceed gradually. The present work should focus on two areas: summarizing and assessing existing assessment mechanisms related to the marine environment, and greatly strengthening the capacity-building of the developing countries.

China is among the countries that have the largest numbers of fishermen and fishing fleets. Food security, poverty reduction and social stability all depend on the sustainable development of fisheries. The Chinese Government is carrying out active cooperation through bilateral mechanisms, regional fishery management organizations and the FAO to promote the conservation, management and rational utilization of fishing resources.

The Chinese Government notes that the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks came into force on 11 December 2001. That Agreement has provided a basic framework for establishing regional fishery management mechanisms. The Chinese Government has already signed the Agreement and is now actively participating in regional fishery cooperation, in accordance with the principles of that Agreement. China has joined both the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Indian Ocean Tuna Commission (IOTC) and has attended meetings of other relevant regional fishery organizations as an observer. China has also signed the Inter-American Tropical Tuna Commission (IATTC) Convention.

Last July, China completed domestic legal procedures for the ratification of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, and preparations for becoming party to the Convention are well under way. The Chinese Government hopes that, through various regional mechanisms, resources can be properly conserved and managed so as to achieve the sustainable development of fisheries.

The Chinese Government attaches great importance to the protection and management of the biodiversity of the seabed in areas beyond national jurisdiction. We believe that, at the present stage, relevant research should be stepped up, taking full account of the existing international seabed regime. The Chinese delegation has noted that the International Seabed Authority has extensive responsibilities for the protection and preservation of the marine environment of the seabed in areas beyond national jurisdiction.

China encourages the Seabed Authority and other relevant international organizations to play an active role in that respect.

As China is a coastal developing country, the Chinese Government attaches great importance to the peace and tranquillity of the oceans, their sustainable development and the protection of the marine environment. The utilization and protection of the sea is an ongoing issue for humankind. The Chinese Government is ready to work with other countries and international organizations and to play its part in advancing the cause of ocean affairs in the interests of humankind.

The meeting rose at 1.05 p.m.

United Nations

A/59/PV.55

General Assembly

Fifty-ninth session

Official Records

55th plenary meeting

Tuesday, 16 November 2004, 3 p.m.
New York

President: Mr. Ping .... (Gabon)

In the absence of the President, Mr. Chowdhury (Bangladesh), Vice-President, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 49 *(continued)*

Oceans and the law of the sea

(a) Oceans and the law of the sea

Reports of the Secretary-General (A/59/62, A/59/62/Add.1, A/59/63 and A/59/126)

Report of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its fifth meeting (A/59/122)

Draft resolution (A/59/L.22)

(b) Sustainable fisheries, including through the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Report of the Secretary-General (A/59/298)

Draft resolution (A/59/L..23)

Mrs. Katungye (Uganda): Allow me, through the President of the General Assembly, to thank the Secretary-General, as well as Mr. Felipe H. Paolillo and Mr. Philip D. Burgess, in their capacity as co-chairpersons of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea, for their most detailed, informative and analytical reports.

As we celebrate the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea, we can not help but be awed by the milestones reached through its supplementation by States, numerous challenges notwithstanding.

As my country has pointed out in the past, the prudent conservation and management of the oceans and seas is of great importance to us, even though we are a landlocked country. Our interest has been further piqued by the discussion on new sustainable uses of oceans, including the conservation and management of the biological diversity of seabed areas beyond national jurisdiction, especially given the presence in them of unique and diverse species and ecosystems.

On the other hand, we note with concern the emerging shift by some countries from upholding the principle of holding all resources found in the seabed of the high seas to be for the benefit of mankind, to debating whether or not those resources include biological resources, such as envisaged in the Convention on Biological Diversity, with reference to perceived lacunae of the United Nations Convention on

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the Law of the Sea and the 1994 Agreement. We do not see why a specific distinction should be made with respect to deep seabed genetic resources.

Nevertheless, in furtherance of the common heritage of mankind, we encourage the International Seabed Authority, in partnership with States, investors and the scientific community, to continue to explore the potential of cobalt-rich ferromanganese crusts and polymetallic sulphides, while taking great caution to minimize the environmental impact arising from exploration of such mineral resources.

We also urge the exploration and bioprospecting of potential sources of medicine and other benefits derived from the biological resources of the seabed, with these resources to be shared on an equitable basis.

The omnibus resolution encourages the intensification of efforts to build capacity and to continue to strengthen capacity-building activities in least developed countries. Uganda would like to support the emphasis placed on targeting least developed countries. Although a landlocked country, we, too, have a stake in the management of the oceans and the seas, as enshrined in the United Nations Convention on the Law of the Sea and attendant agreements and other legal instruments. Further, the lessons drawn from marine research and protection regimes can be transposed to the management of large inland water bodies. As all are aware, Lake Victoria, which is the second-largest lake in the world, is an important resource for food, commerce and international transport in the East African region. It faces the same challenges faced by most coastlines and seas.

In fact, the Food and Agricultural Organization of the United Nations has been instrumental in helping us to analyse challenges and come up with relevant strategies in promoting the sustainable use of the lake's resources. As well, the International Maritime Organization has, in the past, helped with study fellowships for some of our citizens. Those efforts need to be augmented.

Those two cases highlight the importance of the continuous involvement of all relevant United Nations programmes, funds, specialized agencies and other organizations in fostering the sustainable development of marine ecosystems.

In order to effectively help developing States, in particular least developed States and small island developing States, to implement the Convention, we urge all States and organizations in a position to do so to make voluntary contributions, financial or otherwise, to the trust funds established under the Convention and the Agreement, as well as to the relevant fellowship and fisheries programmes. We would like to recognize the contribution made to those funds by some countries, in particular Iceland this morning.

The protection and preservation of the marine environment and its living marine resources are key, and we need to step up concerted efforts towards eliminating or curtailing pollution and the physical degradation of maritime ecosystems. Such protection should take into consideration the proposals of the Plan of Implementation of the World Summit on Sustainable Development, which calls for maintaining the productivity and the diversity of vulnerable marine and coastal areas both within and beyond national jurisdictions.

Further, in accordance with international law, we must stem all destructive practices by vessels that adversely impact on vulnerable ecosystems. Those practices include deep-sea bottom trawling and the use of other destructive fishing gear.

Regarding the issue of illegal, unreported and unregulated fishing activities, we would like to join other delegations in calling upon Member States to take all necessary measures consistent with international law to prevent such unconscionable practices. We look forward to the forthcoming review conference of the United Nations Fish Stocks Agreement, which, we hope, will provide for the evaluation of the effectiveness of implementation of and participation in the Agreement. In the meantime, the onus rests on Member States to counter, within existing international laws, such infractions.

Even more deplorable is human trafficking on the high seas and the smuggling of migrants, who face the possible loss of life and are subjected to health hazards and psychological trauma, among other things. States parties need to vigorously enforce the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, among other relevant conventions.

The issue of the settlement of disputes is very pertinent, and its inclusion in the omnibus resolution is welcome. The International Tribunal for the Law of the Sea has significantly contributed to the peaceful settlement of disputes, as envisioned by the Convention. Its role in interpreting and applying both the Convention and the 1994 Agreement captures the fundamental character of the United Nations of maintaining and strengthening international peace and security. Also to be commended are the International Seabed Authority, the International Maritime Organization and the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat for their invaluable contributions in that regard.

Finally, we wish to thank the Secretary-General for convening the fifth meeting of the Consultative Process, which provided a very useful forum for dialogue and analysis and for forging common interests and goals.

Mr. Ozawa (Japan): At the outset, my delegation wishes to thank the coordinators of the two draft resolutions before us today. Our thanks also go to all countries that contributed to the consultations in a spirit of cooperation and to all the staff of the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat, which provided invaluable support. The Japanese Government is pleased to sponsor the draft omnibus resolution A/59/L.22, and we hope that draft resolution A/59/L.23 on sustainable fisheries will also be adopted by consensus.

Today is the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea. Japan joins others in commemorating this anniversary, and, on this occasion, pays tribute again to everyone who worked so diligently to finalize, adopt and implement the Convention.

Today, the number of member States parties to the Convention is 145, and the number of States parties to the Agreement on the implementation of Part XI is 117. We are pleased to see that these numbers are growing and that the Convention is becoming a more universal legal framework for ocean affairs.

We must note, however, that the international community is facing a wide range of new issues, including transnational crimes, such as terrorism and illegal trafficking in drugs, and also issues relating to the growing pressures on the marine environment. Each of the new issues needs to be addressed in a manner that respects the spirit and provisions of the Convention, while maintaining its framework in principle.

Japan is committed to the Convention and to the organs established under the Convention, namely, the International Seabed Authority, the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf. We have actively participated in the work of those organs and are determined to contribute further to their activities.

With regard to the Tribunal for the Law of the Sea, Japan attaches great importance to the role that the Tribunal plays in the maintenance of the order and stability of the ocean. My delegation wishes to take this opportunity to announce that Japan has decided to nominate Ambassador Shunji Yanai, the former Ambassador of Japan to the United States of America and an experienced diplomat with profound knowledge of international law, as a candidate for election as a judge of the Tribunal, at the elections to be held during the fifteenth meeting of States parties to the Convention, scheduled for June 2005. As the largest contributor to Convention organs in that it provides 22 per cent of their budgets, Japan expresses its determination to continue to contribute to the activities of the Convention organs.

As for the Commission on the Limits of the Continental Shelf, my delegation is pleased to note that Professor Kensaku Tamaki, who was elected as a member of the Commission in 2001, is contributing significantly to the work of the Commission. We recognize that the importance of exchanging views among States in order to facilitate the preparation of submissions by States to the Commission is mentioned in paragraph 33 of the omnibus resolution. For that purpose, Japan wishes to demonstrate its determination to contribute further to the Commission's work by hosting a symposium of experts in Tokyo.

The world continues to be plagued by the threats of piracy and armed robbery at sea. Of the more than 400 incidents occurring annually worldwide, almost half of the incidents are concentrated in Asia.

As described in the omnibus resolution, Japan proposed to formulate a regional cooperation agreement on combating piracy and armed robbery against ships in Asia. After active negotiations over the last three years, the final agreement was adopted on

11 November of this year at the intergovernmental meeting held in Tokyo.

That agreement will strengthen regional cooperation among maritime security organizations through the establishment of an information sharing system and a cooperative network dedicated to combating piracy and armed robbery at sea. Japan hopes that the agreement will not only contribute to enhanced cooperation among States parties in Asia, but will also serve as a very good example of regional cooperation. Japan is determined to continue its efforts to ensure safety for international navigation in Asia.

Allow me, next, to touch upon the maritime environment. Surrounded by the sea on all sides, Japan considers the preservation of the marine environment to be extremely important, and thus, is committed to the prevention of marine pollution at the international, regional and national levels. As a State party, not only to the United Nations Convention on the Law of the Sea, but also to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and the International Convention for the Prevention of Pollution from Ships, Japan is committed to the effective implementation of those conventions, and strongly urges every country that has not done so, to ratify the conventions.

To follow up on the results of the 2002 World Summit on Sustainable Development, the Japanese Government has been making efforts to contribute significantly to the enhancement of the ocean policies of coastal States, at the national, regional and global levels. At the regional level, we are making steady progress in strengthening the functioning of the secretariat of the Northwest Pacific Action Plan.

Concerning the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, Japan amended the relevant sections of its domestic law in May 2004 and is preparing to become a State party.

Japan, as a responsible fishing State, and as a State party to the United Nations Convention on the Law of the Sea, has been earnestly addressing the conservation and management issues, as well as sustainable usage relating to marine resources, including straddling fish stocks and highly migratory fish stocks. Those efforts have been implemented individually, bilaterally and multilaterally. We are seriously concerned about illegal, unreported and unregulated fishing activities — IUU fishing — and the overcapacity issues in global fisheries, which undermine efforts aimed at the sustainable use of living marine resources.

My Government has shown a commitment to eliminating IUU fishing, in order to conserve the marine ecosystem. Japan welcomes the initiative of the Food and Agriculture Organization of the United Nations (FAO) to deal with those problems, including the holding of intergovernmental technical consultations in June and July 2004.

In that regard, we would like to stress the point that, in discussing issues of conservation and management and the sustainable use of living marine resources, we should make certain that the discussions are based on scientific evidence provided by competent organizations, such as the FAO and regional fisheries management organizations. Those organizations have the required specialized expertise to provide accurate assessments and they therefore offer a better forum for such discussions, as compared to the United Nations.

In concluding, I wish to reiterate that Japan will continue to contribute to the stability of the legal framework on ocean affairs, and thereby, to the promotion of prudent and equitable use of the sea by the international community, in accordance with the Convention.

Ms. Sila (Samoa): As the present Chair of the Pacific Islands Forum, I have the honour to speak on behalf of those members who are represented at the United Nations, namely Australia, the Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Palau, Papua New Guinea, the Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

The Pacific Islands Forum covers a region of diverse States, including the least developed, developing and developed, with varied constitutional arrangements, economic links, population bases and other interests. Yet, as a group, we are collectively blessed with a vast expanse of interlocking ocean spaces, and a wealth of marine resources, woven together by our respective exclusive economic zones.

In that context, we share a common objective and realize the critical value of the marine resources and environment in our region. We wish to ensure, as joint custodians, the sustainable conservation and management of those assets in our neighbourhood.

As we have often stated, developments in ocean affairs and the law of the sea remain of primary importance to us. We consider the annual debate under that agenda item, and its consequent resolutions, as part of an ongoing strengthening of the governance of the oceans. Both resolutions enable the General Assembly, as a collective body, to take stock of the events that have taken place in the course of the year in a variety of forums, both within the United Nations system and beyond.

In that respect, we note the burgeoning number of issues raised in the context of the two oceans-related resolutions. While we have some concerns about the length of the resolutions, we regard the active and lively discussions on the issues dealt with in them as a positive sign that Member States remain committed to pursuing international cooperation through the United Nations for the proper and effective management of the global marine environment and its resources. We commend both coordinators for the effective manner in which they conducted the negotiations, and the Division for Ocean Affairs and the Law of the Sea for their able support and organization.

Our group has continued to value the primacy of the United Nations Convention on the Law of the Sea as the constitutional framework of the oceans and seas. It is gratifying to witness the evolution and successful functioning of its subsidiary bodies, especially the work and decisions this year of the Meeting of States Parties, as well as critical work of the International Seabed Authority and the Commission on the Limits of the Continental Shelf. The increasing number of new States parties to the Convention and its related instruments this year serves as a reminder of the Convention's relevance, maturity and growing universality. We support all continuing efforts by this Organization to encourage Member States to join the Convention and its related agreements.

We continue to strongly support the work and role of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea. We were pleased to see that once again the recommendations from the Consultative Process offered a strong contribution to focus and expedite debate and negotiations under this item. Equally, we were gratified that those recommendations did not hamstring this year's negotiations on the omnibus and fisheries resolutions.

We continue to view the Informal Consultative Process as an opportunity for frank discussion on issues of practical import, which can be used to inform and expedite substantive debate during the General Assembly. In our view, the Process continues to prove its worth as a flexible, interactive and integrated forum on oceans. The Pacific Islands Forum looks forward to re-endorsement of the mandate of the Consultative Process next year, for a further term. In addition, we are well satisfied that discussions at the sixth meeting of the Consultative Process next year will focus on the topic, "Fisheries and its contribution to sustainable development".

We also look forward to the substantive work of the inter-agency coordination mechanism, UN Oceans, getting under way in the near future. We hope that the operation of this mechanism will draw together the various threads of work of the agencies and institutions involved in oceans issues and thereby complement the benefits of integration that the Consultative Process already provides.

Our group is pleased that the Assistance Fund established under Part VII of the 1995 Fish Stocks Agreement is now operational. In particular, we recognize the importance to small island developing States of capacity-building to implement both the Convention and the Agreement. The framework established by the Assistance Fund represents a concrete opportunity for small island developing States to that end and for the advancement of their fisheries aspirations generally — but only if Member States take up the invitation to make voluntary contributions to the Fund. We are pleased, therefore, that renewed priority was given this year to capacity-building and trust funds and fellowships. We hope that this outcome in the context of the omnibus resolution is transformed into generous action by Member States in the coming year.

In terms of regional implementation of the Convention and the Agreement, we are delighted to inform the Assembly that the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean entered into force on 19 June this year. Since that date, several additional commitments to the Convention have been received and we welcome efforts by other important States towards ratification and accession in the near future. We look forward to the first meeting, in December this year, of the Western and Central Pacific Tuna Commission, established under the regional Convention, and to ongoing positive and cooperative relationships with all fishing nations in the context of this important regional institution. We continue to urge other distant-water fishing nations with a real fisheries interest in our region to work towards becoming a party to this Convention.

We take this opportunity to refer to the Pacific Islands Forum Regional Oceans Policy, which our leaders approved in 2002. It elaborates guiding principles that serve as a template for members in our group to develop national ocean policies.

At the Pacific Islands Regional Oceans Forum held in Fiji in February this year, representatives from our countries, as well as oceans experts, discussed the key oceans issues confronting us and worked on developing an implementation process for our Regional Oceans Policy. The result of this work is a Framework for Integrated Strategic Action — in other words, an action plan for integrated implementation of our Oceans Policy in the region. The Framework was endorsed by Pacific Islands Forum leaders in August this year. We are proud of these achievements, which we believe will ensure sustainable use of the ocean and its resources in our region by Pacific Islands communities and others into the future.

Our Framework for Strategic Action will be presented in Mauritius in January 2005 at the International Meeting to Review the Implementation of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States. We look forward to the opportunity that Meeting will provide, as well as other future opportunities, to discuss oceans and fisheries issues of critical importance to small island developing States.

We have followed closely this year's developments in the two oceans-related draft resolutions, including, and in particular, issues relating to bottom-trawling, protection of marine biodiversity and illegal, unregulated and unreported (IUU) fishing.

Coming from a region that has a high concentration of vulnerable marine ecosystems, including coral reefs and underwater seamounts, we are well aware of, and firmly support, the need to take urgent action to prevent and manage the effects of destructive fishing practices, including bottom-trawling, that have adverse impacts on vulnerable marine ecosystems. In that context, we were pleased that all States were able to reach agreement on a package of short-, medium- and longer-term responses to problems caused by those practices. We will be sure to take the necessary action in our own region in that regard and will welcome further discussion next year of progress around the globe.

We also welcome the decision this year to establish a new open-ended ad hoc informal working group on marine biodiversity beyond national jurisdiction. There is a clear need to establish a forum where the gamut of issues relating to governance, conservation and management of marine resources and environment beyond national jurisdiction can be openly and constructively discussed and where options for a coordinated international response can be developed. It is critical that all States have an equal opportunity to participate in these discussions, given the significance of the subject matter. We certainly plan to endeavour to participate actively and constructively in accordance with our primary interest in oceans and law of the sea matters.

Finally, Pacific Islands Forum members continue to view IUU fishing as one of the greatest threats to the future sustainability of our regional marine resources and environment. We stand in firm support of the need to take urgent action against such fishing activities and commit ourselves to work, particularly within the context of our new regional organization, to do everything possible to rid our region of IUU fishing. We continue to urge our partners to cooperate with us in achieving that goal.

Mr. Maquieira (Chile) (*spoke in Spanish*): I am going to make my statement in English owing to the fact that some of the countries I am going to speak about are English-speaking countries.

(*spoke in English*)

I have the honour to speak on behalf of 16 States, namely: Argentina, Bolivia, Brazil, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay and Uruguay.

For the States Parties to the 1982 United Nations Convention on the Law of the Sea, the celebration of the tenth anniversary of its entry into force is particularly significant. After a decade, the Convention has demonstrated itself to be one of the most visionary milestones of the United Nations. The General Assembly has rightly reaffirmed the unified character of the Convention and the need to maintain its integrity. At the same time, the States parties to the Convention are aware that it has to be understood against the background of an ever-evolving context determined to a large extent by the dynamic progress in the field of marine scientific research and marine technology.

The current debate is also significant due to the important work and debates at the fifth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea; both draft resolutions on this agenda item launch processes in relation to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

The conservation and sustainable management of marine biodiversity, including the protection of marine vulnerable ecosystems located beyond the limits of national jurisdiction, has been at the forefront of the concerns of the international community in recent years. We have witnessed this, not only in the context of the General Assembly work relating to oceans, but also in other forums like the International Seabed Authority, and the Conference of the Parties to the Convention on Biological Diversity, just to mention two.

Decision VII/5, the latest decision on marine and coastal biological diversity of the Conference of the Parties to the Convention on Biological Diversity, devoted much attention to the question of marine biodiversity beyond the limits of national jurisdiction. Undoubtedly, the work of that body has served as a guide for launching a set of processes reflected in the draft resolutions before us.

The dramatic developments and discoveries in the field of marine scientific research in recent years have shifted our understanding of marine living organisms in the deep sea beyond national jurisdiction. The international community has come to understand the key importance of marine biodiversity to the overall ecology of the planet and its current and potential contributions to sustainable development. Conservation and sustainable use of marine biodiversity are vital; however, our understanding of the various multidisciplinary issues related to biodiversity in the high seas and the international seabed area remains fragmentary. We need integral, interdisciplinary and intersectoral approaches to deal with oceans issues. Finally, the problems of ocean space are closely interrelated and need to be considered as a whole.

In that regard, we welcome the establishment of an open-ended ad hoc informal working group to study issues related to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. We look forward to the Secretary-General's report, which will assist the working group in preparing its agenda. We encourage States to provide their input and their knowledge on matters to be examined by the working group.

We are conscious of the adverse impact on the marine ecosystems and the stocks of some fish, as a result of illegal, unreported and unregulated fishing, as it is stated in detail in the draft resolution on sustainable fisheries. We are convinced of the relevance of the actions that the draft recommends, including regional and subregional cooperation, and we consider they must be implemented in accordance to the International Plan of Action of the Food and Agriculture Organization of the United Nations (FAO) to prevent, combat and eliminate illegal, unreported and unregulated fishing.

We are also concerned by the adverse impact of destructive practices on marine vulnerable ecosystems located beyond national jurisdiction, in particular, high seas bottom trawling. We are well aware of the devastating effects of such practices on the marine ecosystems.

There is a general obligation to protect and preserve the marine environment, including rare or fragile ecosystems. In this regard, we are aware that the precautionary principle calls for urgent action. Therefore, we appreciate the steps provided for in the draft resolution on sustainable fisheries calling upon States or regional fisheries management organizations to consider interim prohibitions of destructive fishing practices in vulnerable marine ecosystems of the high seas. In this respect, we look forward to the discussions of these issues next year, with a view to reviewing the measures taken in accordance with the draft resolution in two years time.

We encourage all States to give serious consideration to the full implementation of the measures prescribed in the text to eliminate destructive fishing practices on the high seas in order to make it a meaningful process for the benefit of present and future generations.

We understand that the measures called for in the draft resolution are fully consistent with the Convention and international law, and particularly with the rights and obligations of coastal States within areas of national jurisdiction.

We also note that in this year's draft resolution on fisheries the conservation and management of sharks has again been mentioned. We are convinced of the need to fully implement the FAO International Plan of Action for the Conservation and Management of Sharks and to take urgent measures at the national level or, as appropriate, at the regional level, to avoid the practice of shark finning.

We consider that capacity-building is crucial in order for developing countries to be able to fully implement the law of the sea framework and the various actions called for in the draft resolutions. Therefore, we acknowledge the critical role of regional initiatives in this regard.

In that context, we appreciate the operation of the Assistance Fund of the Conference on Maritime Delimitation in the Caribbean, intended to facilitate technical assistance in this field. We encourage States and private entities in a position to do so to contribute to this Fund.

We also would like to commend the International Seabed Authority for the preparation of a comprehensive and outstanding 10-year report on the occasion of the tenth anniversary of the establishment of the Authority. We highly appreciate the work of the Authority towards the implementation of its mandate.

We also attach priority importance to the establishment of a regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects. We recognize the urgent need to launch the preparatory stage towards its establishment in line with the Johannesburg Plan of Implementation and General Assembly resolutions 57/141 and 58/240.

We consider that maritime transport of radioactive materials and hazardous waste requires effective prevention and liability regulations to sufficiently guarantee the safety of coastal States. We are concerned in particular by the use of the oceans and seas off our coasts as routes for the transportation of radioactive waste, and that is why we regret the attitude of some shipping countries that do not provide adequate information on such shipments and their routes in a timely manner. For that reason, we highlight the approval by the International Atomic Energy Agency in March 2004 of the Action Plan for the Safety of Transport of Radioactive Material.

We appreciate all reports of the Secretary-General under this agenda item. However, with regard to document A/59/62, we are convinced that any commercially oriented activities involving the biological diversity of the Area are ruled by the principles embodied in the Convention on the Law of the Sea and the Convention on Biological Diversity. Therefore, the biological diversity in the deep seabed beyond national jurisdiction, as part of the Area, is part of the common heritage of humankind. The access to its genetic resources should be subject to the sharing of benefits, taking into account equity and the objective approach of marine scientific research.

Finally, we would like to thank Mr. Marcos Almeida of Brazil and Ms. Jennifer McIver of New Zealand for the coordination of the oceans resolution. Our thanks go also to Ms. Holly Koehler of the United States for her coordination of the sustainable fisheries resolution. Our appreciation goes to the Co-Chairs of the fifth Meeting of the Informal Consultative Process, Ambassador Felipe Paolillo of Uruguay and Mr. Philip Burgess of Australia. Lastly, we would like to thank Mr. Vladimir Golitsyn and the team of the Division for Ocean Affairs and the Law of the Sea for the high quality performance of their responsibilities.

Mr. Navoti (Fiji): My delegation associates itself fully with the statement presented earlier by the representative of Samoa on behalf of the Pacific Island Forum members.

As the Assembly has heard, for those of us in the Pacific the ocean is vital and important. It dominates our lives both in terms of livelihood and economic advancement. The health and stewardship of the ocean are of critical importance; the sustainable and responsible utilization of its resources, both within and outside national jurisdiction, is crucial in insuring the intergenerational enjoyment of its many benefits.

Over the years, the General Assembly has been giving growing attention to the issues that affect oceans and fisheries. The promulgation of the United

Nations Convention on the Law of the Sea, which provides the legal framework for all our deliberations on the oceans and the law of the sea, is without doubt one of the biggest and most historic achievements of the United Nations. It is the first and only comprehensive treaty in the field of the law of the sea that contains both codified rules of customary law and a number of innovations, covering all uses not only of oceans and seas, but also of their superjacent air space and subjacent seabed and subsoil.

While acknowledging the lead role of the United Nations in this area, Fiji, for its part, stands united with other Pacific Islands Forum member States in safeguarding our ocean heritage, as it is indeed a treasure not only for us, but also for all of humanity.

Protecting the Pacific Ocean and its resources has always been central to Fiji's policy. For the first time, the countries of the South Pacific are cooperating to draft a comprehensive ocean policy that will have a large bearing on the region's future. We are using all our abilities and skills to enlist whatever assistance we can to make sure all countries in the region receive the maximum return from the regional tuna fisheries. This has major international significance because it is the largest remaining sustainable source of a seafood commodity that is essential for the global market.

Fiji thanks those countries that are working with our region to help us get a just and equitable return from these important resources. We express particular thanks to the United States for its regional fisheries treaty with certain Pacific Island nations, including Fiji. Our islands have entered a new phase of cooperation in the tuna industry through the Western and Central Pacific Tuna Convention, which came into effect in June.

My delegation is very mindful of the importance of the Johannesburg Plan of Implementation in relation to fisheries, in particular the commitment made therein to restore depleted fish stocks on an urgent basis and, where possible, not later than 2015. The wide application of the precautionary approach and ecosystem approach to the conservation, management and exploitation of fish stocks, including straddling and highly migratory fish stocks, is of utmost importance, and we therefore welcome the call contained in this year's draft resolution on fisheries for States to cooperate towards that end.

Surrounded by a massive and almost unpoliceable ocean, Fiji, like most of its Pacific neighbours, admits that illegal, unreported and unregulated (IUU) fishing remains one of the greatest threats to marine ecosystems. If that practice is allowed to continue without setting up appropriate measures to combat it, it will continue to have serious and major implications for the conservation and management of ocean resources. We support the call in the fisheries draft resolution for States, subregional and regional fisheries organizations and management to fully comply with all existing obligations and to combat IUU fishing and to urgently take all necessary steps to implement the Food and Agriculture Organization's International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

We cannot overemphasize the importance of responsible fisheries in marine ecosystems. Fiji, like many other Member States, is delighted at the inclusion in this year's draft resolution of a call for urgent action towards the putting in place an interim prohibition of destructive fishing practices, including bottom-trawling, which have an adverse impact on vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold-water corals located beyond national jurisdiction.

We are particularly pleased to note the further call for members of regional fisheries management organizations or arrangements without the competence to regulate bottom fisheries to expand their competence to address the impact of destructive fishing practices, including bottom trawling, and to ensure compliance with such measures. Since our region was among those which were the most vocal in calling for a global moratorium on bottom trawling, and because our regional fisheries organization lacked such competence, the inclusion of such a call now is indeed a major victory.

We welcome the recognition of bottom trawling as a fishing practice that poses a potential threat to marine ecosystems and welcome the call for short-, medium- and long-term actions against that practice. Fiji looks forward to the next report of the Secretary-General, in particular the section on the actions taken by States and regional fisheries management organizations giving effect to the call for the regulation of bottom trawling.

Both of this year's draft resolutions on fisheries and the oceans, as in the past, give prominence to the issue of capacity-building. Member States, like the oceans, have differing depths in their ability to participate and fulfil their obligations under the Convention. We support the call for States and international financial institutions to continue to strengthen capacity-building activities in the field of marine scientific research, and we welcome recent capacity-building initiatives such as those of the Nippon Foundation of Japan and the Hamilton Shirley Amerasinghe Memorial Fellowship programme.

My country is fortunate to have been a beneficiary of the capacity-building initiatives and assistance provided by the United Nations and other organizations in matters related to the law of the sea. For that, we are grateful.

Fiji is acutely aware of the time period identified in the Convention for submissions on the establishment of the outer limits of the continental shelf beyond 200 nautical miles. We note that the Commission on the Limits of the Continental Shelf has begun its consideration of the first submissions to be received so far. For our part, we are now working together with regional organizations to explore ways of fulfilling our obligations in that regard.

We welcome the decision contained in the draft resolution on the oceans and the law of the sea to establish an ad-hoc open-ended informal working group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. We commend the idea behind that initiative, and my delegation stands ready to participate cooperatively with others in the ensuing discussions. We hope that, ultimately, appropriate and possible options and approaches to promote international cooperation and coordination for the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction will be taken.

In conclusion, Fiji commends the work of the Sixth Committee in formulating this year's draft resolutions. Active participation and a constructive spirit of compromise will indeed have decisively contributed to its success. Fiji also commends the Secretariat and the Division for Ocean Affairs and the Law of the Sea for their valuable work on oceans, fisheries and law of the sea matters.

Mr. Nakayama (Federated States of Micronesia): My remarks will be brief, but their brevity does not diminish my delegation's concerns with respect to the agenda item under consideration. Those concerns are deeply held.

Micronesia agrees and fully associates itself with the statement delivered earlier by the representative of Samoa on behalf of the Pacific Islands Forum group.

My delegation is grateful for the comprehensive annual report on oceans and the law of the sea submitted by the Secretary-General. We also thank the Division for Ocean Affairs and the Law of the Sea for the important work they carry out in this area and for their unwavering support in facilitating the work of the informal negotiations. I must also refer with gratitude to the dedicated efforts of so many delegations. Naturally, we must give special thanks to Brazil, the United States and New Zealand as coordinators of the draft resolutions before the Assembly.

My delegation is not in unfamiliar territory in speaking here today on this subject. We know too well the significant role that the oceans play in the lives of our people. Micronesia, a developing nation, is an ocean State. Micronesian history began in the days when man explored the seas in rafts and canoes. The seas bring us together; they do not separate us. Our oceans sustain us. Their resources enrich us. Our people continue to rely on the bounties of the ocean for sustenance and economic development.

Experience has shown us that the state of ocean affairs, to put it plainly, remains precarious. The indiscriminate destruction of ocean resources continues. For example, large-scale pelagic drift-net fishing, while generally on the decline, remains a threat to marine living resources.

The continuing shipment of plutonium and radioactive wastes through our exclusive economic zones remains of great concern. Our Pacific Ocean is a vital breadbasket for the entire planet. Any transshipment accident could have a serious impact on the livelihood of our peoples and our economies and would be felt far beyond our shores for many generations to come.

Unauthorized fishing in zones of national jurisdiction and on the high seas and illegal, unreported and unregulated fishing continue to be of concern. Micronesia has a vast, exclusive economic zone rich in fish resources. Like all small developing Pacific island States, we simply cannot act alone to manage and monitor illegal, unreported and unregulated fishing in areas under our national jurisdiction. We require the cooperation of other States to take greater enforcement measures to ensure that their vessels do not engage in illegal, unreported and unregulated fishing. States must also ensure that even when their vessels are authorized to fish in areas of national jurisdiction, they comply faithfully with the terms of that authorization.

Of increasingly serious concern is the threat to marine habitats and the adverse impact on vulnerable marine ecosystems caused by deep-sea trawling. Because it occurs at great depths and in areas beyond national jurisdictions, some may still not take this threat seriously. It is also fair to say that as science learns more about the impact of deep-sea trawling on marine biodiversity, the problem will become more obvious. The seventh meeting of the Conference of the Parties to the Convention on Biological Diversity explicitly called on the United Nations to take action. Although we realize that the issue will continue to be debated for years, we strongly fear that time is not on our side. The precautionary principle should guide our deliberations in addressing our concerns on this subject.

Preparing a submission to establish its extended continental shelf is a difficult task for a country such as mine, even within the extended time frame. In the case of Micronesia, we lack the basic capacity and the expertise necessary to acquire and collate the highly complex scientific data required for submission. That problem is further exacerbated by the lack of financial resources to actually get the work done. Without targeted assistance from the donor community, we will find it extremely difficult to make the required submission to the Commission.

My delegation is most gratified to note the significant achievements made at the regional level within the context of the Fish Stocks Agreement under the Convention on the Law of the Sea. This year, the Pacific region welcomed the entry into force of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The Convention is testament to our regional commitment and to the cooperative approach adopted by coastal States and distant-water fishing nations towards sustainable conservation and management of our valuable fish stocks. We call on States and entities that participated in the process of establishing the Convention to assign high priority to cooperating fully in its administration.

My delegation is most humbled by the decision to make the Federated States of Micronesia the host of the Western and Central Pacific Tuna Commission, established under the regional convention. My country looks forward to hosting the final preparatory conference for the establishment of the Commission and the inaugural session of the Commission. Those meetings will be held consecutively early next month in our capital.

Mr. Hahn Myung-jae (Republic of Korea): At the outset, allow me to express my gratitude to the Secretary-General for his comprehensive and informative report on oceans and the law of the sea (A/59/62). I also thank Mr. Marcos de Almeida of Brazil and Ms. Holly Koehler of the United States for their excellent work in coordinating the two draft resolutions, A/59/L.22 and L.23. In addition, we thank the staff of the Division for Ocean Affairs and the Law of the Sea for their hard work and invaluable assistance to Member States, and also thank Division Director Vladimir Golitsyn.

Today we celebrate the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea. With 145 States parties, the Convention continues to solidify its status as the essential constitution for the oceans and the sea. We urge those States that have not yet done so to become party to the Convention at the earliest possible date so that we may achieve the collective goal of universality.

The oceans and the seas are an invaluable resource for humankind's welfare, providing food, mineral resources and a means of trade and transportation. Unfortunately, serious misuse of the oceans and the seas continues to threaten their health. Today, trafficking in weapons of mass destruction, narcotics and even humans through maritime transport is of grave concern to the international community. My Government supports and will actively participate in efforts to maintain peace and security on all the seas of the world.

The Republic of Korea is party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol. Moreover, we actively participate in the International Maritime Organization's ongoing review of those instruments as part of its efforts to strengthen the means of combating such unlawful acts, including terrorism at sea. In order to further improve maritime security, we believe that flag States and port States must intensify cooperation to ensure safe navigation, including taking measures to eliminate the persistent prevalence of piracy and armed robbery at sea.

The Republic of Korea welcomes the adoption by the International Maritime Organization of amendments to the 1973 International Convention for the Prevention of Pollution from Ships. The Korean Government is currently implementing measures to ensure protection of the ocean environment, including the establishment of a phase-out scheme for 86 single-hull tankers, 45 of which are used to carry heavy-grade fuel oil. In that regard, we urge flag and port States to take appropriate measures to prevent the operation of sub-standard vessels.

My Government has enacted a law on controlling pollutant discharges to the coast from land-based sources, and we are implementing an across-the-board marine environment policy to improve seawater quality and preserve the ecosystem in the areas within our national jurisdiction.

Furthermore, we are expanding regional collaboration with China, Japan and Russia, among others, through the Northwest Pacific Action Plan and the Partnership in Environmental Management for the Seas of East Asia. The Republic of Korea remains committed to expanding and strengthening its efforts to protect and preserve the marine environment in the region and beyond.

On the global front, the Republic of Korea welcomes the recent progress in the establishment of the Global Marine Assessment. At the same time we underscore that, in the light of the serious degradation of the marine environment, the Global Marine Assessment must exert focused and well-calibrated efforts to take concrete measures under article 200 of the Convention on the Law of the Sea to counter the oceans' physical degradation and pollution.

We also support the International Seabed Authority's work to protect the marine environment, conserve the natural resources of the Area and minimize damage to the flora and fauna that may result from prospecting and exploration for mineral resources in the area.

The Republic of Korea is engaged in various activities at the national, subregional, regional and global levels to uphold and implement the provisions of the Johannesburg Plan of Implementation on sustainable fisheries. Efforts to eliminate illegal, unreported and unregulated fishing are being undertaken with the utmost determination. Moreover, as party to the Compliance Agreement, the Republic of Korea is taking a strong stance on regulating the activities of vessels flying its flag, in order to ensure effective marine conservation and management.

We also note that there is a danger that deep sea bottom-trawling may irreversibly damage the sensitive and delicate deep-sea environment. We underscore the need to improve our understanding and knowledge of the deep sea, especially its biodiversity and ecosystems. In that regard, we would like to point out the need to step up marine scientific research activities regarding deep-sea biodiversity in accordance with the Law of the Sea Convention. We are of the view that the Food and Agriculture Organization (FAO) and relevant regional fisheries management organizations should play the main role in the conservation and the sustainable use of fishery resources and the protection of deep-sea biodiversity. We therefore urge the FAO and other relevant regional fisheries management organizations to seriously take up the issue.

Finally, we welcome the establishment of the Oceans and Coastal Areas Network (UN-Oceans) as a much needed inter-agency coordination mechanism on oceans and coastal issues. We have high hopes that the various United Nations organizations and other international bodies will actively engage in UN-Oceans.

Mr. Rahman (Bangladesh): It is a matter of great joy for all of us to be celebrating today, 16 November, the tenth anniversary of the entry into force of the 1982 United Nations Convention on the Law of the Sea. My delegation is pleased to see that the Convention, which is rightly considered to be the constitution of the seas and oceans, has almost achieved universality, with 145 States parties. We also note the successful holding of the fourteenth Meeting of States Parties in June 2004. Therefore now is an opportune moment for us to assess the progress made and to set our future goals.

Bangladesh attaches particular importance to the Convention on the Law of the Sea as the agreed legal framework for all peaceful uses of the seas and oceans.

The Convention defines the limits of territorial waters, national zones and the continental shelf. It also guarantees the freedom of navigation beyond the territorial sea and the right of passage through the territorial sea, international straits and archipelagic waters. We remain committed to full implementation of the Convention.

As the Assembly is aware, Bangladesh is a coastal country inhabited by a nation with seafaring traditions. The sea, therefore, plays a vital role in our lives. There is no denying the fact that the Convention is one of the most significant developments in the evolution of the concept of the exclusive economic zone. The Convention has attributed sovereign rights to the coastal States over the living and non-living resources within the exclusive economic zone in a jurisdictional framework.

As a State party to the Convention, Bangladesh has remained deeply committed to its provisions. Since ratifying the Convention in 2001 we have been taking the necessary measures at the national level to update our legislation in that regard. We will continue to work with others in ensuring a fair share for all of the oceanic resources under the framework of the Convention.

The offshore areas of Bangladesh and our exclusive economic zone are among the richest in the world in terms of biodiversity and energy potential. However, that treasure trove of natural resources is being seriously threatened by increasing pollution, caused both by land-based activities and by ocean-going vessels. Bangladesh is particularly vulnerable to the effects of a major oil spill, which could pollute large areas of the coastline and destroy the livelihood of thousands of inhabitants of the coastal belt. The Convention on the Law of the Sea contains detailed provisions for both the management and control of pollution, as well as for maritime scientific research and environmental protection. Bangladesh calls for enhanced international cooperation for capacity-building in the areas of combating and controlling pollution and promoting environmental protection and coastal management.

We agree with the Secretary-General that the principal objective of an ecosystem-based approach to fisheries management should be directed towards mitigating the impacts of fishing on marine ecosystems while maintaining fishing as a viable economic activity. Bangladesh considers it important to forge greater international cooperation in long-term conservation, management and sustainable use of marine living resources of the world's oceans and seas. We also remain deeply committed to combating illegal fishing, piracy and other crimes at sea.

The 1982 Convention provides for the exploration and exploitation of the riches of the deep sea beyond the limits of national jurisdiction as the common heritage of humankind. All countries, developed and developing, can benefit from nature's bounty. We hope that the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea will ensure that the benefits derived from the exploration and exploitation of this common heritage of humankind are fairly shared by all.

We believe that the capacity-building of the States parties to the Convention constitutes an essential element, particularly for the developing countries, to enable a more active part in the management and conservation of marine resources. We agree with the Secretary-General's observation that there is an increasing need for capacity-building in developing countries, in particular with respect to the preparation of submissions to the Commission on the Limits of the Continental Shelf.

Bangladesh welcomes the establishment of several trust funds and assistance programmes under the Convention in that regard. Such funds would help the developing countries, including Bangladesh, build their capacity for sustainable exploration and exploitation of marine resources. Technical assistance may take such forms as training on legal issues, assistance in preparation of national submissions regarding delineation of the continental shelf, joint surveys for coastal and seabed mapping and surveys of marine resources.

My delegation thanks the Secretary-General for his report; it is indeed a useful document to chart our future programmes. We would also like to place on record our appreciation for the institutions established by the Convention — the International Tribunal for the Law of the Sea, the International Seabed Authority and the Commission on the Limits of the Continental Shelf.

In conclusion, I would like to reiterate my delegation's hope for our common endeavours towards the betterment of all our peoples through a fair and sustainable exploitation of marine resources.

Mr. Kupchyshyn (Ukraine): This year's debate is especially notable as it marks the tenth anniversary of the entry into force of the 1982 United Nations Convention on the Law of the Sea. Ukraine is firmly committed to the Convention, which represents a significant achievement by the international community, as well as important testimony to United Nations efforts to codify and develop international law. Its importance is even more evident today. The Convention has proved to be not only a charter within which all activities related to oceans and seas should be carried out, but also a basis for a comprehensive system of economic and political cooperation in marine-related matters.

As a country actively participating in the international community's efforts to preserve the marine environment and to maintain and manage fish stocks, Ukraine has become a party to the 1995 Fish Stocks Agreement, which ensures the conservation and management of those stocks on the basis of the principle of responsible fishing on the high seas. I would like to take this opportunity to call on other States that have not yet done so to accede to that instrument in order to achieve the broadest possible participation.

My country has continuously attached great importance to the issue of fisheries. Ukraine's legislation on fisheries was developed on the basis of the provisions and principles of the Fish Stocks Agreement, well before Ukraine became a party to the Agreement. Nowadays, further practical steps to implement the provisions of the Fish Stocks Agreement are being taken. They include the adoption of a number of legal documents designed to enhance the role of the State in conducting ocean fishing and increasing the responsibility of vessel owners.

The overexploitation of living marine resources through excess fishing capacities continues to be of concern to the international community. As a geographically disadvantaged country bordering a sea poor in living resources and suffering from the depletion of fish stocks in its exclusive economic zone, Ukraine places special emphasis on the problem of illegal, unregulated and unreported fishing. We strongly believe that all States should apply effective measures for the conservation, management and exploitation of fish stocks in order to protect living marine resources and preserve the marine environment. Better international cooperation is needed in this sphere, and a crucial role has to be played by the relevant regional organizations, which should further enhance their cooperation with distant-water fishing States and geographically disadvantaged nations.

Ukraine emphasizes the need to ensure effective coordination and cooperation in integrated ocean management, facilitate sustainable fisheries, enhance maritime safety and protect the marine environment from pollution. In that context, we note with satisfaction the ongoing work on the establishment, pursuant to the recommendation of the World Summit on Sustainable Development, of a regular process within the United Nations for global reporting and assessment of the state of the marine environment. We hope that further practical steps will be taken to establish such a regular process.

The institutions established within the framework of the Convention are essential components of the global system for the rule of law and the maintenance of peace and security on the oceans.

We note with satisfaction that the International Seabed Authority, while examining the reports submitted by contractors, continues the elaboration of rules, regulations and procedures to ensure the effective protection of the marine environment and the conservation of the natural resources of the Area. We reaffirm the crucial role of the International Tribunal for the Law of the Sea in the process of the interpretation and the implementation of the 1982 Convention and the Fish Stocks Agreement.

Substantial progress has been made by the Commission on the Limits of the Continental Shelf, which has received its first submissions regarding the establishment of the outer limits of the continental shelf beyond 200 nautical miles. At the same time, it is important to provide further assistance to developing countries facing substantial difficulties in the process of preparing such submissions, primarily because of the lack the necessary technical, scientific and financial resources.

The number of cases of piracy and armed robbery continues to be of major concern to the international community. Such cruel and unlawful acts not only have a negative economic impact on maritime transportation but also constitute a real threat to the lives of crew members. Active measures by States and international and regional organizations are needed to combat and, more important, to prevent such illegal acts at sea and bring the perpetrators to justice.

The international community should devote more attention to the issue of preventing terrorist acts at sea. In that regard, universal participation in and proper implementation of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and other related instruments are of paramount importance. We also welcome the entry into force of the two optional protocols to the United Nations Convention against Transnational Organized Crime, one concerning the smuggling of migrants and the other on the prevention, suppression and punishment of trafficking in persons.

In conclusion, I would like to underline the importance of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea, which facilitates the General Assembly's annual review of developments in ocean affairs. I would also like to express our appreciation to the Secretary-General for both the quality and the scope of the reports submitted under this agenda item; they are powerful tools facilitating international cooperation and coordination. The activities of the Division for Ocean Affairs and the Law of the Sea continue to be intensive and thus worthy of our praise.

Mr. Araníbar Quiroga (Bolivia) (*spoke in Spanish*): It is an honour for the Bolivian delegation to address the General Assembly on the occasion of the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea, an international legal instrument with a universal and unitary character of paramount importance for the sustainable development of oceans and seas.

The Convention was opened for signature on 19 December 1982 at Montego Bay, Jamaica, and its entry into force in 1994 marked a new era for international development. It gave shape to the ideals of more than 150 countries of all regions of the world, which over a period of 14 years focused their efforts on establishing a broad regime for resolving all issues related to the law of the sea, conscious of the fact that problems regarding marine areas are closely linked and must be considered as a whole.

Today we commend the political will expressed by the international community and the participation in such a vitally important instrument by countries with varying levels of socio-economic development, including coastal, archipelagic, island and landlocked States, as well as States that are geographically disadvantaged with respect to ocean spaces.

Bolivia ratified the United Nations Convention on the Law of the Sea, conscious of that legal instrument's strategic importance for international law and as a basis for cooperation at the national, regional and international levels.

I would like to take this opportunity to explain the unique situation of Bolivia with respect to ocean spaces and the law of the sea. At the present time, and as a consequence of its temporary and forced isolation, Bolivia participates in the group of landlocked countries and supports the Almaty Programme of Action: Addressing the Special Needs of Landlocked Developing Countries within a New Global Framework for Transit Transport Cooperation for Landlocked and Transit Developing Countries.

Moreover, I would like to underline paragraph 57 of the report of the Secretary-General on oceans and the law of the sea, contained in document A/59/62, which states that

> "In yet another development that was reported on recently, Bolivia raised the issue of its access to the sea at several major regional and bilateral meetings, in an attempt to start a dialogue regarding the century-old demand by Bolivia for a sovereign outlet to the Pacific Ocean coast."

We welcome the fact that the Secretary-General has referred to Bolivia's claim for a free, useful and sovereign outlet to the Pacific Ocean and request that he continue to provide information on this matter to the General Assembly in subsequent reports.

October was the one hundredth anniversary of the 1904 Treaty. We do not wish to further elaborate on Bolivia's historical and legal rights to the coast of the Pacific Ocean. In that regard, we have distributed to all delegations the Blue Book on the Maritime Claim of Bolivia. Also, an official document of the General Assembly has been distributed under the symbol A/59/445, containing the Declaration on the Centennial of the 1904 Treaty by the Ministry for Foreign Affairs and Worship of Bolivia.

However, it is necessary to recall that as a consequence of the Pacific War, Bolivia lost more than 120,000 square kilometres of its territory, 400 kilometres of the Pacific Ocean coast and enormous mining resources. The war caused Bolivia the loss of its free and sovereign access to the Pacific Ocean and the mutilation of a very important part of its territory, including all the raw materials and natural resources that this territory held, and still holds.

Moreover, we recall for the international community that Bolivia had a coast line and free access to the Pacific Ocean from 1825 to 1879, in other words, during 54 years of its history as a republic. For that reason, on the centennial of the 1904 Treaty, which ended the Pacific War, we firmly assert that the Treaty did not solve what it was intended to solve, since it was imposed by force and the politics of fait accompli. The 1904 Treaty meant Bolivia's loss of its free, sovereign and useful access to the sea, and that is why that international agreement has prevented the attainment of a final and satisfactory solution to the problems pending between Bolivia and Chile.

Furthermore, it must be said most clearly that Chile has not complied in a permanent manner with its obligations under the 1904 Treaty. In that respect, it should be mentioned that in circumstances of decisive importance for the history of Bolivia, such as the Chaco War and the national revolution, Chile clearly did not comply with its commitment and obligation of permitting free transit, owing to interests of a different kind.

Presently, the recent privatization of seaports by the Government of Chile is creating a new kind of relationship between Bolivia and private companies. It is creating a relationship different from the kind that should exist between two States that need to enter into dialogue on one of the principle issues of the Treaty: seaports. It should be underlined that in recent months the Government of Bolivia has had strong and important differences with the Government of Chile with respect to fulfilment of obligations under the 1904 Treaty, in particular with respect to the free-transit regime and the privatization of the seaport of Arica.

Considering that the integration of South America is making progress and that Bolivia's request to free maritime access has become a stumbling block in the path of integration, Bolivia reaffirms its willingness to undertake a reasonable, constructive and integrated approach with Chile and reaffirms that it will not alter its demand, as it is founded on deep historical, moral and legal grounds.

In any case, in the spirit of integration that prevails in the new millennium, the Government of Bolivia calls on Chile to resume our bilateral dialogue following the agreement of both countries at the 2000 Algarve meeting and declares its intention to pursue the dialogue initiated by our respective Presidents, in particular at the November 2003 meeting of Heads of State and Heads of Government on the occasion of the thirteenth Ibero-American Summit, which took place in Santa Cruz de la Sierra in Bolivia.

In the process of South American integration, the nations of the Andean Community and MERCOSUR have reached agreements with the goal of moving towards an integrated South American area, which could become a reality sooner than expected. However, the persistence of bilateral conflicts and the lack of a response to Bolivia's maritime claim will delay and weaken the process of regional integration. Bolivia believes its land-locked isolation is a multilateral issue given its geopolitical nature, economic impact and diplomatic consequences.

At the same time, Bolivia stresses that bilateral negotiations with Chile are possible and that it stands ready to make the attempt, while reserving the option of raising and discussing this issue in various forums and international organizations so long as it remains unresolved.

Negotiations with Chile must have a clear orientation and a clear objective, which is, without doubt, the signing of a new treaty that reflects the present situation. If we want to create a new vision for the twenty-first century, it makes no sense to look backwards. On the contrary, we must look forward, seeking a new legal instrument between Chile and Bolivia that truly and really enables peace and friendship between our two peoples.

The Government of Bolivia takes this opportunity to express its willingness to enter into an open dialogue with the Government of Chile, enabling the attainment of an adequate answer and a final solution to the maritime problem.

In conclusion, the Bolivian delegation reaffirms the need to find peaceful solutions to the controversies that continue to exist in the Western hemisphere by acting in a spirit of genuine and rejuvenating multilateralism, aimed at strengthening efforts to enable peace-loving peoples to make progress in their development on the ever more solid foundations of shared responsibilities and generous solidarity.

Mr. Aniemena (Nigeria): I would like to express my delegation's appreciation of the Secretary-General's comprehensive reports, contained in documents A/59/62 and A/59/126, on important developments and issues relating to oceans and the law of the sea, including information on the status of the United Nations Convention on the Law of the Sea and its implementing agreements. It is gratifying to note that today, 16 November 2004, marks the tenth anniversary of the Convention's entry-into-force.

With the number of parties to the Convention now standing at 145 of a total of 195 States, we welcome the remarkable progress in the efforts towards universal accession to the Convention. Indeed, the Convention has proved to be a veritable and crucial legal framework for all issues and activities related to oceans and for the allocation of ocean spaces. As a coastal State, Nigeria reaffirms its unwavering commitment to the Convention and its implementing agreements.

We are greatly encouraged by the international community's desire to establish a Global Marine Assessment process that is truly global and all-inclusive. We believe that the establishment of a new assessment process would go a long way in providing coherent and viable options and measures to deal with the challenges of the successful management of the marine environment and the question of the deteriorating state of the world's oceans and seas and in addressing the socio-economic consequences of the degradation of the marine environment.

Nigeria continues to grapple with the overwhelming challenges of improving the standards of living of its coastal populations by seeking ways to reverse the economic and social setbacks occasioned by adverse environmental impacts. In the light of the transboundary nature of negative environmental impact and the resulting economic and social problems associated with marine degradation, Nigeria strongly supports an assessment that essentially addresses the socio-economic causes and consequences of the distressing conditions of the marine environment.

In the light of the foregoing, Nigeria welcomes the ongoing efforts towards the establishment of a Global Marine Assessment, which is to be a regular, global and comprehensive assessment of the marine environment, including living marine resources and socio-economic aspects. We note that the draft conclusions of the Global Marine Assessment International Workshop include a recommendation that the General Assembly invite the Secretary-General to establish a task force to initiate and coordinate the next stage of preparatory work necessary to formally establish the Global Marine Assessment. In that regard, my delegation strongly supports the view that the work of the task force should conform to the principles of the Johannesburg Plan of Implementation and the relevant resolutions of the General Assembly, resolutions 57/141 and 58/240.

Concerning the issue of maritime space, Nigeria has indicated that it will present its submission on the limits of its continental shelf before August 2005. We commend the work of the Commission on the Limits of the Continental Shelf, particularly the adoption of a revised set of rules of procedure, which was accomplished on the basis of the practical experience gained by the Commission from receiving and examining its first submission, from the Russian Federation. We believe that the consolidation of all the existing procedural rules into a single basic document will make them easier to understand and will facilitate their application and interpretation by coastal States intending to make a submission. In addition, we welcome the ongoing work on the preparation of a training manual to assist States in acquiring the knowledge and skills necessary to prepare a submission on the outer limits of the continental shelf.

Nigeria also commends the Secretary-General for his detailed report entitled "Sustainable fisheries, including through the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments" (A/59/298). We note with appreciation the steps and initiatives taken by the international community to improve the conservation and management of fishery resources and other marine living resources with a view to achieving sustainable fisheries and protecting marine ecosystems and biodiversity.

Nigeria appreciates the need to manage and conserve fish stocks. Commercial fishing constitutes an important factor in ensuring food security programmes, a basic policy of our Government. Consequently, the conservation and rational use of living resources of the sea and the sustainable development of resources are vital to its success. In that regard, Nigeria notes with interest the positive impact that the 1995 Fish Stocks Agreement has made on the conservation and management of international fisheries and that it has become the standard for best international practice in many States. We believe that the 1995 Fish Stocks Agreement represents a courageous attempt by the international community to protect commercially important species that have been subjected to illegal, unregulated, and unreported (IUU) fishing.

The central role of the regional fisheries management organizations (RFMOs) in the implementation of the relevant fishery instruments cannot be overemphasized. They continue to make invaluable contributions to tackling IUU fishing problems and destructive fishing practices. Nigeria therefore welcomes the progress made thus far by the various RFMOs. Nigeria continues to support cooperation and coordination among the RFMOs to enhance data collection, monitoring and enforcement. We also appreciate the important role of the Food and Agriculture Organization of the United Nations (FAO) in that regard.

Nigeria agrees that IUU fishing in all its forms constitutes the main obstacle to achieving sustainable fisheries, both in areas under national jurisdiction and on the high seas. We recognize the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing as the main international instrument for dealing with this problem, and we welcome the decision of the General Assembly to make the full implementation of that instrument a top priority. We further endorse the recommendations of the FAO technical consultation to tackle the problem, including the recommendation that FAO continue to use funds to assist developing States with the implementation of the International Plan of Action, and the recommendation concerning the need for flag States, at the national level or acting through RFMOs, to adopt measures to prevent the reflagging of vessels to States that do not comply with the Agreement.

Nigeria underlines the importance that the United Nations places on capacity-building for developing States. In the same vein, we welcome the collaboration between the FAO, the World Bank, the New Partnership for Africa's Development and the World Wide Fund for Nature to forge a strategic partnership for a sustainable fisheries intervention fund in the large ecosystems of sub-Saharan Africa. We believe this move should enhance the use of Global Environment Facility (GEF) funds to implement the World Summit on Sustainable Development targets on poverty reduction and fisheries. We welcome the approval by the GEF of a 15-month project to prepare the relevant partnership brief, which is expected to propose a $265 million budget over a period of 10 years. It is pertinent to note that the fisheries component of the preparatory meeting for the African Process for the Protection and Development of the Marine and Coastal Environment in Sub-Saharan Africa took place in June 2002.

Finally, the international community must address the continuous damage being done to the marine ecosystem by well-known destructive fishing practices, to supplement regional efforts to put an end to such practices. The precautionary approach and the ecosystem approach should be blended to ensure the sustainable use of marine resources.

Mr. MacKay (New Zealand): New Zealand associates itself with the statement by Samoa on behalf of the States of the Pacific Islands Forum, of which New Zealand is a member. We would also like to add a few additional comments on our own behalf.

This year is particularly significant for the issues of oceans and the law of the sea. Our debate marks the tenth anniversary of the opening for signature of the United Nations Convention on the Law of the Sea. The continuing relevance of the Convention and its principles as the global foundation document for oceans governance and management was reaffirmed and given modern expression by our leaders at the World Summit on Sustainable Development, held in Johannesburg two years ago. New Zealand welcomed the commitments made in the Johannesburg Plan of Implementation on oceans issues, and continues to urge States to make every effort to ensure that the calls to action contained in that Plan are fulfilled.

In particular, New Zealand is concerned that adverse impacts of fishing activities on vulnerable marine ecosystems continue to occur, and, more worryingly, that reactions by States to address the problem are often too slow and inadequate. New Zealand considers that these issues require urgent interim action.

New Zealand also strongly supports the need to address these issues through appropriate regional fisheries management structures. Proper geographical coverage of regional fisheries management organizations with the capacity to manage demersal species, updated mandates for organizations to address environmental issues caused by deep-sea fisheries, and the adoption of strong conservation and management measures are three key areas for States to focus their action and attention. For our part — in addition to existing prohibitions and other measures in place in our own exclusive economic zone — New Zealand is already taking the first steps towards the establishment of a new regional fisheries management framework for demersal fisheries in the Tasman Sea area adjacent to New Zealand's waters.

We are pleased with the commitment shown by all States this year to address the impacts of destructive fishing practices and bottom-trawling that have adverse effects on marine ecosystems. Given the urgency of this issue, New Zealand looks forward to the opportunity to check progress on interim measures and on improvements to regional management arrangements next year, at the sixtieth session of the General Assembly. Together, we will need to consider options for ensuring that adequate protection and management is in place for any areas where progress has been insufficient.

New Zealand welcomes the establishment of a new Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. There is no question that the time has now come for States to sit down together and focus in earnest on the question of high seas marine biodiversity, which, as we are all aware, involves a multitude of interests. We must not be deterred by the number and complexity of issues that will arise in the course of this work, nor by the expectation that resolution of them will take time. We hope that the work of the Group will enable key issues to be clearly identified so as to facilitate the direction and scope of any future work. We are ready and willing to use this forum to engage seriously with others to work through the relevant issues of importance so as to enhance protection and preservation of the marine environment.

Proper conservation and management of marine resources and biodiversity requires a fully integrated approach to oceans governance and management. As noted in Samoa's statement on behalf of the Pacific Islands Forum, we in the Pacific have a regional oceans policy in place as well as an action plan to ensure integrated implementation of our regional policy. In that same vein, New Zealand continues to view the Informal Consultative Process on Oceans and Law of the Sea as a vital opportunity to survey, in an integrated way, important international oceans issues. New Zealand supports the adoption of a renewed mandate for the Informal Consultative Process beyond the sixth meeting of the Process, to be held in June next year.

Finally, we thank the Secretary-General for his report, which is, as always, comprehensive and of great assistance to delegations and to the wider oceans constituency. I should like here to acknowledge, as we have in the past, the very fine work carried out by the Division for Ocean Affairs and the Law of the Sea.

We participated in the consideration of the Secretary-General's report during the Informal Consultative Process earlier this year, which identified key issues of concern. As a co-sponsor, we fully support the reflection of those concerns and the conclusions reached in both resolutions under this item.

Mr. Nguyen Duy Chien (Viet Nam): As we celebrate the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea (UNCLOS), we would like to express our satisfaction with the positive developments that have occurred in the process of implementing the Convention, such as the rapid increase in UNCLOS membership, the successful establishment and functioning of the three relevant bodies — namely the International Seabed Authority, the International Tribunal for the Law of the Sea, and the Commission on the Limits of the Continental Shelf.

We congratulate the International Seabed Authority on the work it has done during the last decade and support its efforts in the development of a legal regime for prospecting and exploration for polymetallic sulphides and cobalt-rich crusts and in the conservation of biodiversity in the Area. We also commend the work of the International Tribunal for the Law of the Sea and the Commission on the Limits of Continental Shelf. In particular, we appreciate the continuing efforts made by the Commission in assisting States in the preparation of their submissions, by providing any scientific and technical advice that might be useful, preparing a training manual and an executive summary, and calling for additional political and financial support for the Trust Fund. We will continue to support the work of these three bodies.

The delegation of Viet Nam takes note with appreciation of the outcome of the discussions held during the fifth meeting of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea. We believe that any activity related to the biological diversity of the deep seabed beyond areas of national jurisdiction must be carried out for the benefit of humankind as the whole. In general, we support the meeting's recommendations as submitted to the fifty-ninth session of the General Assembly. We also welcome the decision to establish an Ad Hoc Informal Working Group to survey past and present activities of the United Nations and other relevant international organizations with regard to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, and examine the scientific, technical, economic, legal, environmental, socio-economic and other aspects of those issues. In that context, we would like to lend our support to the view that arrangements relating to new ocean affairs issues should be fair and take into account the interests of developing countries.

Two years ago, the member countries of the Association of South-East Asian Nations (ASEAN) and China signed the Declaration on the Conduct of Parties in the South China Sea — Eastern Sea. As an important step towards building a code of conduct in the South China Sea, the Declaration underlines, among other things, the commitment of the parties to exercising self-restraint in the conduct of activities that could complicate or escalate disputes or affect peace and stability in the region. The recent ASEAN Ministerial Meeting in June 2004 in Jakarta and the Ministerial Conference of the Movement of Non-Aligned Countries in August 2004 in Durban, South Africa, highlighted the significance of the Declaration on the Conduct of Parties in the South China Sea for promoting peace, security and stability in the region.

Viet Nam has had a consistent policy of peaceful settlement of relevant disputes in the spirit of equality, mutual understanding and strict respect for international law, especially the United Nations Convention on the Law of the Sea, and is committed to respect and implement the Declaration. It is up to the other signatories to strictly abide by all provisions of the Declaration, especially the commitment not to conduct activities that would complicate or endanger the peace and affect peace and stability in the region.

Mr. Tierney (Australia): As we reflect today on what has happened in the law of the sea since the entry into force exactly ten years ago of the United Nations Convention on the Law of the Sea, who can fail to be surprised at how far we've come since 1994? Anxiety about whether the Convention would ever gain wider participation has been replaced by sense of security in the status it has achieved as the foundation of States' cooperation in their use of the oceans.

The comprehensive instrument we have today was not always planned to have that character. The process by which it came about was sparked 37 years ago by Ambassador Pardo's address proposing that the deep ocean floor should be the common heritage of all mankind. This concept quickly won universal acceptance, but carried with it the need to define the boundary between the deep ocean floor and the continental shelf under national jurisdiction. Article 76 of the Convention, which sets out the rules for establishing the boundary, is in a sense the seed from which the Convention grew.

It was quickly realized that one facet of the law of the sea had implications for all other facets. As the preamble to the Convention and the resolutions before us state, the problems of ocean space are closely interrelated and need to be considered as a whole. That remains true and it's something we should all bear in mind with the Convention being open for amendment from today. However, most of the piecemeal improvements to the Convention that many of us including Australia would be happy to see, would be equally attainable, in effect, by continuing to refine the way we interpret and apply the Convention.

The recommendations of the fifth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and Law of the Sea are the source of much of the new language in the resolutions before us. That attests once more to the value of the process.

As usual Australia will co-sponsor and vote in favour of both resolutions. We express our thanks to the coordinators, to the Secretariat, whose job seems to get harder every year in line with the resolutions' ever-increasing length, and it is time we lightened their burden. There are plenty of topical problems in the Law of the Sea in general, and fisheries in particular, that are worthy of our close attention, but their prominence is only obscured by our collective insistence on repeating the same things year after year, as though General Assembly resolutions expired after a year. Is it too much to hope that the combined total this year of 45 preambular and 187 operative paragraphs in the two resolutions represent high-water marks?

Yesterday, Australia submitted to the Commission on the Limits of the Continental Shelf its submission on the outer limit of the shelf beyond 200 miles, the territorial sea baseline. Australia's submission is the third on the Commission's books. We are confident that the Commission will faithfully discharge its functions under article 76. We look forward to working with the Commission in the coming months, as it formulates the recommendations on which our final and binding outer limit will be based.

We are confident that in our case, these recommendations will emerge within a reasonable timeframe. However, we are concerned that, for reasons beyond the Commission's control, this will not necessarily be so for States that come after us. While the Commission only has the space and human resources to deal actively with two submissions at a time, the achievement of certainty about the limits of the areas beyond national jurisdiction and the removal of a clog in the operation of the International Seabed Authority are likely to be an increasingly remote prospect. For this reason, Australia welcomes paragraph 31 of the omnibus resolution. As required by paragraph 10, Australia's submission is without prejudice to a number of existing and outstanding maritime boundary delimitations.

I am pleased to report that one of the outstanding delimitations was recently resolved. Our maritime boundary delimitation agreement with New Zealand was signed in Adelaide on 25 July 2004 and settled what was Australia's longest undelimitated maritime boundary. The legal certainty the treaty engenders is an essential step towards the rational exploitation of resources in the parts of the Tasman Sea concerned. As a boundary arrived at by negotiation, it is by definition one that both sides regard as fair and an equitable reflection of their overlapping maritime zone entitlements under the Convention.

Turning to fisheries, Australia welcomes the fact that since our last session the European Community and many of its member States, as well as Kenya, have become parties to the Fish Stock Agreement. This adds significantly to the gravitational pull the Agreement is exercising on the general international law of fisheries. In Australia's region, we welcome the entry into force of the Honolulu Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. It creates a mechanism for sustainable exploitation of tuna, the one sizeable resource enjoyed by the island States of the Pacific Island Forum. The Commission created by the Convention is due to hold its inaugural meeting next month. It is particularly gratifying that two States with distinct water-fishing interests in the Convention area, China and the Republic of Korea, and one fishing entity with similar interests, Chinese Taipei, have now consented to be bound by the Convention.

The Convention is a breakthrough for another reason, namely, to give practical effect to the fine words we utter each year. We talk a lot about the cautionary approach to fishing in Annex II of the United Nations Fish Stocks Agreement, but neglect article 10 (j), which obliges parties to agree on decision-making procedures that facilitate the timely and effective adoption of conservation management measures. Consensus or objection procedures have often driven all the Commissions to the lowest common denominator. They adopt measures that are too little, too late or they end up completely paralysed. The Honolulu Convention is a serious attempt at implementing article 10 (j) and avoiding paralysis. Instead of providing an objective procedure, the Convention provides for a review procedure. The only grounds for review of measures adopted under the Convention are that the measures are inconsistent with the Convention, the Fish Stocks Agreement or the Honolulu Convention, or that they discriminate in form or in fact against the State concerned.

Australia was surprised that so much of the negotiation of this year's draft resolution on fisheries was devoted to the issue of bottom-trawling. Australia has been a long-standing champion of high-seas biodiversity conservation. We realize that some fishing practices have damaged important biodiversity, and that in some areas this damage is continuing.

Australia is concerned, however, that fishing practices that are not destructive of high-seas biodiversity might also be penalized if we take too broad an approach. The efficacy of the measures we take will in part depend on their ability to differentiate between genuinely destructive and non-destructive practices, and between those flag States that are prepared to control their nationals' activities and those that are not. Australia will allow its nationals to build a sustainable longline and trawl industry in the waters of the Southern Oceans. At the same time, we will continue to ensure, consistent with paragraph 66 of the fisheries draft resolution (A/59/L.23), that fishing is conducted responsibly and with observer coverage. We will also continue to work hard to improve governance in the high seas more generally.

Australia has long been a proponent of strengthening measures to tackle illegal fishing. We continue to act firmly against unlicensed vessels fishing in Australian waters, whatever their flags. We are pleased to have seen, earlier this month, the adoption of a centralized vessel monitoring system by the Commission for the Conservation of Antarctic Marine Living Resources. No single measure will do more to combat the illegal, unreported and unregulated fishing that has been going on in the Southern Ocean for far too long.

But are we doing all we can to bring uncontrolled fishing to an end? Perhaps treating illegal, unreported and unregulated fishing as a single problem reduced to an acronym — IUU — has outlived its usefulness. After all, such fishing is not one problem but three, each of which requires separate international policy responses. Those responses must be based on flag States' responsibility for the activities of their fishing vessels on the high seas or in other States' exclusive economic zones. Making States accountable for those activities must become a focus of our efforts.

Mr. Arons (Palau): Palau agrees and fully associates itself with the statement delivered earlier by the representative of Samoa on behalf of the Pacific Islands Forum group.

Palau took great pride in participating in the discussions over the last month that will shape international law on fishing and the ocean for years to come. The spirit of cooperation and compromise made the discussions fruitful and relevant. It was important to hear not only from the world's largest fishing nations, but also from those smaller States that are affected by the practices of others.

It is regrettable that over the course of the informal discussions much emphasis was placed on how the resolutions would impact the fishing States. As one looks at the declining state of the world's ecosystems, it is abundantly clear that we have too often repeated the same mistake. Rather than applying the precautionary principle and taking measures to prevent destruction of the environment, we far too often find ourselves trying to solve problems that have already developed destructive and sometimes unstoppable momentum. The failure over the last weeks to adequately address the issue of deep-sea bottom trawling is a stark example of that very phenomenon.

Over the last month and-a-half we had the opportunity to chart a different and better course. Scientists from around the world have called on this body to take urgent action to prevent destruction of the deep seas' magnificent biodiversity — a world of untold beauty and value. The scientific community is just beginning to understand the scope and the vulnerability of the deep sea. It is already clear, however, that seamounts and other deep-sea features are both teeming with unique life and extremely vulnerable. At the same time, we know that a small number of fleets from larger, more developed countries that have depleted their own fisheries are now bottom trawling in international waters. And we know that that method of fishing is ploughing up ancient coral systems and untold scores of endemic species.

For Pacific nations like Palau, protecting the ocean is not of casual interest; it is essential to preserving our way of life. Without fish in the sea, we in the Pacific simply will not survive. Accordingly, we are disappointed that the Open-ended Consultative Process did not recommend that the General Assembly take immediate and effective measures this year to protect the deep sea from destructive fishing practices.

The General Assembly has twice in the past two years emphasized the need for urgent action to manage the risks to marine biodiversity in areas beyond national jurisdiction. In February, this call was echoed by the Seventh Conference of the Parties to the Convention on Biological Diversity. And just last summer, Secretary-General Kofi Annan and United Nations Environment Programme Executive Director Klaus Toepfer made similar calls for action to protect the world's oceans.

In the light of these and other expressions of concern by the international community, Palau believes that the time for action has arrived. We therefore express our grave disappointment that the draft resolutions currently before the Assembly did not call for an immediate moratorium on bottom trawl fishing in all high seas regions. Untold destruction of the world's most beautiful and biodiverse seabeds will continue until such a moratorium is in place. A moratorium on high-seas bottom trawling would be consistent with this institution's best traditions of global marine stewardship, such as General Assembly resolutions on large-scale pelagic drift-net fishing on the high seas that were adopted by consensus from 1989 to 1991.

Palau will continue to raise the issue of a moratorium on deep-sea bottom trawling at all international forums until the legal infrastructure is in place to deal with that destructive practice.

Mr. Pawlak (Poland): At the outset, I would like to thank the Secretary-General for his comprehensive report on oceans and the law of the sea (A/59/62) and for its very informative and up-to-date addendum. Both documents provide us with an excellent overview of developments relating to the implementation of the United Nations Convention on the Law of the Sea and the work of the Organization and other international bodies in the field of ocean affairs.

I wish also to express our appreciation to the coordinators of the draft resolutions before us today, namely, Mr. Marcos de Almeida of Brazil, Ms. Jennifer McIver of New Zealand and Ms. Holly Koehler of the United States. Poland is pleased to co-sponsor both draft resolutions. In addition, I would also like to thank the Division for Ocean Affairs and the Law of the Sea, headed by its new Director, Mr. Vladimir Golitsyn, for the support they have provided.

My delegation wishes to associate fully itself with the statement made by the representative of the Netherlands today on behalf of the European Union. We would like, nevertheless, to provide some additional information on issues under consideration related to Poland's activities.

It is my great honour to deliver this statement today on 16 November, which marks the tenth anniversary of the entry into force of the 1982 United Nations Convention on the Law of the Sea. During the past decade, despite numerous obstacles and challenges, the Convention, as a unique international legal instrument, contributed greatly to cooperation in maritime affairs and strengthened the enforcement of law in a balanced and harmonious way. I would like to take this opportunity to appeal to States which have not yet done so to accede to the Convention with the aim of ensuring its universality and enabling the Convention to attain its full potential.

Since international affairs are increasingly influenced by international judiciary institutions, my delegation would like to commend the International Tribunal for the Law of the Sea on its active role in solving inter-State disputes, thus contributing to the affirmation of the rule of law in maritime affairs. The Tribunal's internal judicial practices and guidelines for the preparation and submission of cases before it were well presented by Mr. Dolliver Nelson, President of the Tribunal, as well as by Mr. Philippe Gautier, the Registrar, during the last two Meetings of States Parties.

The sections of the report of the Secretary-General (A/59/62 and Add.1) that deals with the protection and preservation of the marine environment have provided a comprehensive understanding of the degradation of coastal and marine environments caused by pollution from sewage, persistent organic substances, radioactive materials and oil, as well as pollution from vessels and oil spills.

The Polish delegation is very concerned by the fact that the degradation of coastal and marine environments has not decreased in the last year but in fact has intensified. We must do everything in our power to stop that process, which has an unprecedented impact on human health, food security and safety. We believe that one of the more efficient ways of preventing the further degradation of the marine environment is through regional cooperation among States.

Poland fully supports the activities of the Baltic Marine Environment Protection Commission and the recommendations adopted during its 25th meeting in Helsinki, in March 2004, on measures to reduce discharges from freshwater and marine fish farming, and on assessment of the need for escort towing in tanker transport routes to prevent accidents in the Baltic Sea area, new oil filtering technologies on board ships and guidelines for the safety of winter navigation in the Baltic Sea.

My Government is fully committed to improvement of the state of the marine environment in the Baltic Sea. In fact, on 9 October 2003, the Polish

Council of Ministers adopted an ordinance on the expansion of the act of 1995 concerning the prevention of marine pollution by ships. That ordinance criminalized marine pollution by navy, coastguard and police vessels.

Poland is also committed to the protection and preservation of the marine biodiversity of the oceans in areas of national jurisdiction and beyond the limits of national jurisdiction. We therefore highly appreciate the decision to establish an ad hoc open-ended informal working group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. We support that timely initiative and are willing to cooperate with other delegations and institutions on that issue.

Taking into account the fact that shipping carries more than 90 per cent of world trade, Poland believes that safety of navigation is of crucial importance to the international community. In that respect we recall the decision of the European Parliament of 6 November 2003 to set up a temporary committee on improving safety at sea and its subsequent resolution on this issue adopted on 20 April 2004.

Poland supports the establishment of a European coastguard service equipped with the necessary competence and instruments to ensure maritime safety and protection of the maritime environment, strict monitoring of adherence to certain shipping routes, prosecution of the illegal entry of vessels and coordination of measures in the event of an accident at sea.

We welcome the approval of the amendments — proposed by the International Maritime Organization's Maritime Safety Committee — to Chapter XII of the International Convention for the Safety of Life at Sea aimed at introducing new provisions relating to double-hull construction for new bulk carriers of 150 metres in length and over as an optional alternative to single-side construction. We look forward to the adoption of those amendments during the session of the International Maritime Organization scheduled for next month. We would, however, like to stress that more attention should be devoted to the maintenance and condition of vessels, since a poorly maintained double-hulled tanker represents a greater potential hazard than a well maintained single-hulled tanker.

Poland is encouraged by the fact that since the *Prestige* disaster of November 2002 we are fortunate not to have witnessed a tragedy of a similar scale in Europe. However, we are concerned by the disaster involving the freighter *Rocknes* off the coast of Norway, which occurred last January and caused the deaths of 18 people.

With respect to maritime security and crimes at sea, my delegation is pleased to acknowledge the entry into force on 1 July 2004 of the International Ship and Port Facility Security Code and related amendments to the Convention for the Safety of Life at Sea. We are encouraged by the steadily rising number of ships and port facilities that have had their port security plans approved.

Poland supports the criminalization of the maritime transport of weapons of mass destruction, their means of delivery and related materials in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. We are fully committed to the Proliferation Security Initiative, which is an important tool in responding to the growing challenge posed by the proliferation of weapons of mass destruction.

We believe that serious consideration should be given to proposals to include the transport of nuclear, chemical and biological weapons in the list of offences. We continue to be deeply concerned about the increase in the number of reported acts of piracy and armed robbery. We support the conclusion of regional agreements aimed at combating those crimes, including efforts against terrorism, and enhancing cooperation at regional levels.

With respect to the fisheries draft resolution (A/58/L.23), Poland is pleased that a significant amount of emphasis was given to cooperation to combat illegal, unreported and unregulated fishing. We are deeply concerned by the continued deterioration of marine fish stocks worldwide. The situation is alarming, since almost half the major fish stocks are now fully exploited and another 25 per cent are overexploited or significantly depleted.

In that regard, my delegation is pleased to recall that on 19 February 2004, the Polish parliament adopted a fisheries act that constitutes a significant step forward in its domestic legislation aimed at rationalizing and regulating activities related to fishing. In addition, the Government of the Republic of Poland is currently in the final stage of acceding to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. We hope that the effective implementation of those legal instruments will bring us one step closer to preventing the further deterioration of fish stocks and enhancing the protection of the marine ecosystems and of biodiversity.

In conclusion, I am pleased to inform the General Assembly that my Government is currently in the process of acceding to the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea and to the Protocol on the Privileges and Immunities of the International Seabed Authority.

Mr. Paolillo (Uruguay) (*spoke in Spanish*): I wish to add a few brief comments to what was said by the representative of Chile, who spoke on behalf of a group of countries to which Uruguay belongs.

Every year, my delegation awaits with a certain anxiety the reports of the Secretary-General on the oceans and the law of the sea. This is because year after year we hope that we will be told that the progressive deterioration of the marine environment has been checked and that the state of the oceans in general and of their resources has improved.

Regrettably, this year — as on previous occasions — that hope has been frustrated. Clearly, the reports before us (A/59/62 and Add.1, A/59/63 and A/59/126) provide abundant data on measures adopted and activities undertaken to face the threats that loom over the oceanic space. Legislation and regulations as well as cooperative actions carried out by global and regional institutions have always occupied a large part of the Secretary-General's reports, and they do so in the reports submitted during the present session.

Those reports describe new international regulations and measures adopted recently in various areas of the law of the sea — such as prevention and suppression of crime at sea, security in international maritime transport and protection of the marine environment. Furthermore, we welcome the existence of a network of programmes, plans of action and institutions that have undertaken vigorous regional cooperation activities aimed at protecting the marine environment in 18 marine and coastal regions. It is therefore clear that in the 10 years since the entry into force of the United Nations Convention on the Law of the Sea, States and international institutions have focused on the task of strengthening the international oceans regime established by the Convention.

However, and despite such activity in the spheres of regulation and cooperation, the reality presents a discouraging picture. The degradation of the coastal and marine environments has intensified. The threat posed to the health of the oceans by the past and present dumping of hazardous substances into the sea and by the ecologically irresponsible scrapping of ships continues unabated. In certain regions of the world, there is a constant risk of hydrocarbon pollution. The general situation of all marine fish populations about which information is available continues to deteriorate because of overfishing, illegal, unregulated and unreported fishing and unsustainable fishing practices. The number of cases of piracy, robbery, kidnapping and other acts of violence committed in the marine space continues to increase in some regions of the world, and the trafficking of immigrants and drugs continues to be a threat to security.

Those trends persist, but not because of a lack of warnings or regulations. The reports leave no room for doubt as to the cause of the growing deterioration and depletion of the marine space. That cause is rooted in the indifferent or negligent behaviour of States that do not adopt the policies, regulations and measures that they have pledged to adopt or, if they adopt them, do not implement them or act in a manner that is incompatible with or in open violation of internationally undertaken commitments.

At the opening of the current session of the General Assembly, Secretary-General Kofi Annan reported how the rule of law is currently being breached throughout the world and how ignoring and violating the fundamental laws of international coexistence threaten peace and security. Unfortunately, such breaching of the rule of law manifests itself in many areas of international cooperation and is persistent and widespread in some sectors of the law of the sea.

We understand that the best way to celebrate the tenth anniversary of the Convention's entry into force is to comply with it and with the many subsequent instruments that we have accepted to ensure its implementation. We must recall that — as the Secretary-General said concerning the rule of law —

the existence of the Convention as a mere concept is not enough; the Convention must be respected and complied with, and it must pervade all State activities in the ocean environment. Let us also recall that the basic message of the report in document A/59/62 is expressed in its final paragraph, paragraph 307. It consists of an appeal to all States to fully implement the provisions of the Convention, in their legislation, in their administrations and in their daily practice.

Moreover, in operative paragraph 4 of draft resolution A/59/L.22, States are requested to harmonize their national legislation with the Convention's provisions and to ensure the consistent application of those provisions. That portion of the text, through its annual repetition, has become a routine formula to which no one pays attention. However, in our opinion, it continues to be the most important appeal in this increasingly long resolution.

The increase in human activity in the deepest ocean areas, made possible by technological development — particularly the capture of deep-water species — has caused growing alarm in the international community, because such activity has serious negative effects on the particularly vulnerable habitats of those species.

Uruguay welcomes the importance being accorded by international forums to the issue of conserving and classifying the biological diversity of the seabed beyond national jurisdiction. That vast reserve of compounds, materials and organisms located in the ocean depths offers the promise of great economic, scientific and environmental resources, but the exploitation of those resources is being carried out in a disorderly and ecologically irresponsible manner. Fishing activities, the mining of the seabed, bioprospecting and even scientific research are all activities that threaten the integrity of the ecosystems located in areas beyond national jurisdiction. This problem must become a priority item on the international agenda so that we can examine it in depth, adopting an integral and multidisciplinary approach.

We therefore enthusiastically support the references in paragraphs 67 to 76 of draft resolution A/59/L.22 on the need to adopt measures to monitor the threats to biological diversity in the seabed and to tackle certain destructive practices. We welcome the decision to establish an ad hoc open-ended informal working group, which would be responsible for studying the problems of conservation and the sustainable use of marine biodiversity.

The International Seabed Authority — which in its first 10 years of existence and under the leadership of Mr. Satya Nandan successfully completed the preparatory phase of its tasks — is called upon to play an important role in formulating a strategy to protect the biodiversity of the international zone. In formulating as soon as possible the draft regulation for the prospecting and exploration of polymetallic sulphides and ferromanganese crusts, the Authority can contribute substantially to the protection of the zone's vulnerable ecosystems by adopting appropriate rules.

Uruguay continues to be concerned with the fact that after having proved the destructive effects of bottom-trawling fishing nets, we have not yet been able to agree on adopting effective measures to put an end to — or at least limit — this practice, which causes irreversible damage to the marine environment. In that respect, we find the content of paragraph 66 of the draft resolution on sustainable fishing to be disappointing.

I would like to highlight the importance of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, which held its fifth meeting this year. The fact that this forum is focusing its deliberations on a limited number of topics preselected by the General Assembly, with the valuable participation of experts, ensures an enriching exchange of ideas and information and a dissemination of knowledge regarding the ocean space that is indispensable to the adoption of appropriate policies and regulations.

Finally, in celebrating the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea, we think it is also necessary to celebrate the successful functioning of the institutions that the Convention created: the International Tribunal for the Law of the Sea, the International Seabed Authority and the Commission on the Limits of the Continental Shelf, as well as the productive and efficient work of the Division for Ocean Affairs and the Law of the Sea. We extend our thanks to the authorities and the personnel of those institutions.

The Acting President: We have now heard the last speaker on our list on sub-items (a) and (b) for this meeting. We will continue this debate at 10 a.m. tomorrow.

One representative has asked to speak in exercise of the right of reply. May I remind members that statements in the exercise of the right of reply are limited to 10 minutes for the first intervention and to five minutes for the second intervention and should be made by delegations from their seats. I call upon the representative of Chile.

Mr. Maquieira (Chile) (*spoke in Spanish*): In the debate this afternoon, the representative of Bolivia made a statement in which he referred to my country and to the Treaty of Peace and Friendship, which has governed our two countries' relations since 1904. In presenting his perception of the Treaty he made a series of misleading statements that I feel obliged to correct.

First, the peace treaty between both countries was freely examined, negotiated and concluded. The Bolivian Government contributed substantive initiatives and proposals regarding the Treaty, as noted in the documents that describe the negotiations. The Treaty of Peace and Friendship of 1904 was approved by a broad majority of the congresses of both countries at a time of economic progress and constitutional normality in Chile and Bolivia. All its clauses, despite what was stated here today by the representative of Bolivia, have been completely respected. This has led to relations of good neighbourliness and the establishment of mechanisms for permanent bilateral consultations and cooperation in various areas.

This Treaty guarantees a legal framework freely agreed upon and fully implemented by our countries and a regime of free transit and access to and from the sea for Bolivia in all circumstances. My country fulfils and will continue to fulfil that obligation so that this access remains full and permanent. Free transit is a practical and daily reality between both countries. Under this regime goods, vehicles, trucks and railways, as well as an oil pipeline, pass to and from the ports of Arica and Antofagasto at all times and in all circumstances. The Bolivian Government fulfils its responsibilities in a regular manner and with no obstacles whatsoever, in accordance with existing agreements. The Chile-Bolivia border-crossing is speedy and efficient and has been hailed by impartial parties, including the United Nations, as a useful and constructive example for other border crossings in the region.

In this context, it is important to reiterate my country's firm and unwavering support for the principles and the validity of international treaties, as well as its compliance with the agreed provisions. I would like to state that this is not a multilateral topic and to reiterate that my country has declared on many occasions its willingness to have a dialogue with Bolivia and has repeatedly proposed the restoration of diplomatic relations. In that respect, we await Bolivia's decision to move towards dealing with issues of mutual interest in accordance with the principles of bilateral relations.

Mr. Aranibar Quiroga (Bolivia) (*spoke in Spanish*): After listening to the statement by the representative of Chile — which expresses a position often repeated by Chile, since it reiterates that the treaty between Bolivia and Chile regulates a normal situation — I must once again refer to facts that are conclusive in that they demonstrate that what the treaty tried to resolve was not resolved. This is true not only with regard to my country, for reasons that I have stated and that are repeated with increasing insistence in a public outcry to find a free, useful and sovereign outlet to the sea. There are also increasingly repeated, evident and unconcealable statements by the citizens of our sister country Chile that the treaty signed with Bolivia needs to be updated to reflect new realities and must allow for Bolivia's useful, free and sovereign access to the Pacific Ocean.

These are facts that are well known in the public opinion of both countries. It is equally well known that if this treaty had resolved what it should have, it would not have led to negotiations on more than five occasions in the last century — in 1920, 1926, 1950, 1975 and 1987 — aimed precisely at resolving what this treaty did not resolve.

In that respect, we have to say again that the persistence of bilateral conflicts and the lack of maritime access will prevent regional integration. Bolivia considers that its landlocked situation is a multilateral problem because of its geopolitical effect, economic impact and the diplomacy involved. But Bolivia declares that a bilateral negotiation with Chile is possible, and it is prepared to undertake it. Until that is done, Bolivia will continue to discuss the matter in international forums.

Negotiations with Chile should have a clear objective, and that is the signing of a new treaty that addresses the present issue. If we wish to have a vision of the twenty-first century we should not look backwards, but rather we must look ahead, seeking the negotiation of a new legal instrument between Chile and Bolivia that truly and genuinely will allow us to achieve peace and friendship between our peoples.

Mr. Maquieira (Chile) *(spoke in Spanish)*: I do not wish to prolong this meeting unduly, therefore I will simply confine myself to once again stating what my delegation has reiterated, which is that between Chile and Bolivia there is no type of territorial problem.

Programme of work

The Acting President: I would like to inform Members that, at the request of the sponsor, consideration of agenda item 161, entitled "Andean Zone of Peace", originally scheduled for Thursday afternoon, 18 November 2004, is postponed to Thursday afternoon, 2 December 2004, after the consideration of the reports of the Sixth Committee.

The meeting rose at 6.05 p.m.